APPROPRIATIONS, BUDGET ESTIMATES, ETC.

VOL. 1

STATEMENTS

ONE HUNDREDTH CONGRESS, SECOND SESSION

(January 25, 1988 to October 22, 1988)

SHOWING

I.—APPROPRIATIONS MADE DURING THE SECOND SESSION OF THE ONE HUNDREDTH CONGRESS IN REGULAR ANNUAL, SUPPLEMENTAL, AND MISCELLANEOUS APPROPRIATION ACTS; RESCISSION ACTS; DEFERRAL RESOLUTIONS; AND MAJOR ACTS AUTHORIZING APPROPRIATIONS (pp. 1–1226) *(continued in vol. 2)*

PREPARED UNDER THE DIRECTION OF THE COMMITTEES ON APPROPRIATIONS OF THE SENATE AND HOUSE OF REPRESENTATIVES AS REQUIRED BY LAW (U.S. CODE, TITLE 2, SECTION 105)

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COMPILERS' NOTES

1. The Legislative Appropriation Act approved June 7, 1924, provided:

"In lieu of the data relating to offices created and omitted and salaries increased and reduced, the statement shall hereafter contain such additional information concerning estimates and appropriations, as the committees may deem necessary."

Such data had been tabulated in previous volumes of this work for each session of Congress from the Fiftieth to the Sixty-seventh, inclusive, covering the fiscal years 1889 to 1924, inclusive.

2. This compilation contains laws affecting, rescinding, or making appropriations which were enacted during the second session of the 100th Congress with the exception of private relief acts containing appropriations. These acts have been omitted from this compilation, but a summary containing the number of the act, the beneficiaries, and the amount appropriated is included.

There were *twenty-two* appropriations bills acted on, to some extent, by the Congress during the second session of the 100th Congress (twenty were House bills and two were Senate bills). *Twenty* of those bills eventually became law, consisting of thirteen regular annual appropriations bills, four supplementals for fiscal year 1988, one supplemental for fiscal year 1989, one budget rescission act, and one enrollment correction. One bill (S. 2562—District of Columbia, 1989) was reported in the Senate, but was not considered. Another bill (H.R. 5096—Emergency Supplemental, 1988) was reported in the House, but was not considered. A chronology of all twenty-two bills is included in table V (see pp. 2268-2273).

There was one separate "rescission acts" and no separate "deferral resolutions" during the 100th Congress, second session; however, several rescissions and deferrals were included in appropriation acts. It should be noted that amounts *proposed* for rescission are not reflected in the *net totals* for new budget (obligational) authority shown in the various tabulations throughout this volume whereas *amounts rescinded are reflected* in those totals.

3. This volume also contains various comparative tabulations for the session showing, by fiscal years and in both detailed and summarized form, the Presidential budget estimates (requests) for "appropriations" and certain other types of requests involving the appropriation of obligating and spending authority.

4. While required by the Constitution as a necessary prerequisite to the withdrawal of *any* money from the Treasury, through long usage the term "appropriation" acquired a definite, technical word-of-art meaning in relating to many details and summaries in the annual budget of the President, in the making available of obligational and spending authority, and in tabulations and summarizations of congressional fiscal actions. If the proposition did not "appropriate" within the concept thus imparted to the term, then it was not added in the "appropriation" totals. If it did so "appropriate", it was added in.

Thus, in congressional tabulations generally, a "reappropriation" (extension) of a balance of a previous appropriation was not added to the "appropriation" totals even though it provided obligational and spending authority beyond what would in its absence have been the case. An "authorization to expend from debt receipts" (sometimes called "public debt borrowing authority") was not counted as an "appropriation" even though it conveyed both authority to obligate and authority to expend. An authorization to enter into contracts in advance of an appropriation ("contract authorization"), being authority to obligate the Government but not to *expend* money, was not added in the general "appropriation" totals. But a subsequent "appropriation to liquidate" that contract authorization—an authority to expend money but not to create additional obligations—was counted as an "appropriation".

Furthermore, historically, prior to fiscal year 1969 the general budgetary and congressional appropriation totals were arranged and presented so as to give greater emphasis and prominence to those dealing with Federal or Federally-owned funds, as distinct from *trust* funds which the Government theoretically holds in a fiduciary capacity. Although prior to fiscal year 1938 (75th Cong., 1st sess.) such trust funds were relatively insignificant in the total appropriations picture they subsequently came to loom large, and while *separately* tabulated and noted in volumes of this work *previous* to the 90th Cong., 2d sess., they were not included in the aggregate totals, of "appropriations" generally emphasized and cited. (See note, table X, in volumes *prior* to the 90th Cong., 2d sess.). But in subsequent volumes, including this volume, they *are* incorporated in general appropriation totals.

Title 31 U.S.C., section 2, dealing with the national budget system, provides that the term "appropriations" includes, in appropriate context "* * * funds and authorizations to create obligations by contract in advance of appropriations, or any other authority making funds available for obligation or expenditure."

Special Note.—A further significant departure in what is now included in several general summary tabulations, which was not so included in these volumes *prior* to the 90th Cong., 2d sess., has to do with obligational or spending authority (including rescissions) conveyed in acts other than the regular annual and supplemental "appropriation" acts. Copies of such acts, and certain specific tabulations related to them, usually appear in one way or another in such prior volumes, but the amounts were not cranked directly into a number of the overall summary tabulations as had been done in volumes beginning with the 90th Cong., 2d sess. This especially affects tables VIII, IX, and X. To retain some consistency of ready identity as between amounts relating to the regular annual and supplemental "appropriation" acts and amounts relating to "appropriations in legislative acts", there is a breakout among these lines in each of these three tables (in some years, the "legislative act" amounts are quite significant, relatively. And sometimes, it is not easy or possible to nail down with absolute precision the amounts involved in the "budget estimates" or the amounts "appropriated"). The total new budget (obligational) authority in these tables are net amounts reflecting rescissions in regular annual and supplemental appropriation acts, rescission acts, and legislative acts.

A new, *unified* budget concept recommended by the President's Commission on Budget Concepts in its report of October 10, 1967, was embraced by the President, and the Budget for 1969 incorporated most of its basic features. The object was to secure usage, as nearly as may be practicable, of a *single* concept of appropriations, receipts, expenditures, lending, and debt in order to promote public and congressional understanding of Federal fiscal and budget actions and matters. The various comparative tabulations and summaries in this volume conform generally to the new concept in respect to "appropriations".

(For a more detailed exposition of the new concept, see the Report of the Commission, especially in relation to "appropriation", pp. 6, 12, 16, 76, 95, and 100; Special Analysis A, the Budget for 1969; and hearings of February 8, 1968, before the Committee on Appropriations, House of Representatives, on the Budget for 1969, p. 40 and following.)

Thus, in lieu of the terms "Estimates" and "Appropriations" used in volumes previous to the 90th Cong., 2d sess., subsequent volumes, including this volume, use the terms "Budget estimates of new (obligational) authority" and "New budget (obligational) authority appropriated". In broad terms, by far the major single difference between aggregate general totals in this volume in contrast to those in volumes previous to the 90th Cong., 2d sess., is the inclusion, in this volume, of *trust* funds (virtually all of which, incidentally, in any session or year, flow automatically from permanent-type enactment of *previous* sessions that thus do not require action in bills of the *current* session). And even under the new concept, in all but a relative handful of instances, the new budget (obligational) authority "requested" and "appropriated" is in the old, conventional "appropriation" form as previously used and understood.

Specifically, "new budget (obligational) authority" is derived by—

Appropriations (as herein above described) excluding appropriations to liquidate contract authorizations; plus
Reappropriations; plus
Contract authorizations; plus
Authorizations to spend from debt receipts.

It must be noted that there are, within the Government, certain inter-fund and intragovernmental payments between accounts that get counted in both places. Principal examples include: Interest on public debt securities held by trust funds; governmental contributions to employee retirement trust funds; and general fund contributions to various insurance programs. And under the new unified concept, certain "proprietary receipts from the public" are offset against budget authority *for budget summary presentation* purposes. This situation can complicate if a simple addition of Federal fund totals and trust fund totals is made without reckoning with this "deduct" problem. [Note.—The aggregate "deduct" figure of $217,979 million for fiscal year 1989 used in several of the summary tables in this volume is the *estimated* amount relating to fiscal year 1989 shown on page 6g–17 of the Budget for 1989. Being an estimate, the "deduct" figure is *subject to revision* as actual data become available; and an updated amount for fiscal 1989 will appear in the budget for 1990.]

5. The Congressional Budget and Impoundment Control Act of 1974, Public Law 93–344, changed the fiscal year from the July 1–June 30 fiscal year to an October 1–September 30 fiscal year, and provided for the change to take place with the fiscal year beginning October 1, 1976 (fiscal year 1977). However, the preceding fiscal year (1976) ran from July 1, 1975 through June 30, 1976, thus providing a three-month interim period (July 1–September 30, 1976) for the necessary transition to the new fiscal year. This volume, and the previous volumes beginning with fiscal year 1977, are based upon the October 1–September 30 fiscal year.

Title X (the "Impoundment Control Act of 1974") of the Congressional Budget and Impoundment Control Act of 1974 established new procedures for the reporting and control of impoundment actions of the President. Included in this volume are reports showing the status of rescissions and deferrals for fiscal year 1988 and the first 3 months of fiscal year 1989.

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[1] Majority and minority members elected January 6, 1987.
[2] Majority members elected January 6, 1987. Minority members elected January 21, 1987.
[3] Resigned October 5, 1987.
[4] Elected to the Committee October 21, 1987.

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I. APPROPRIATIONS MADE DURING THE SECOND SESSION OF THE ONE HUNDREDTH CONGRESS IN REGULAR ANNUAL, SUPPLEMENTAL, AND MISCELLANEOUS APPROPRIATION ACTS; RESCISSION ACTS; DEFERRAL RESOLUTIONS AND MAJOR ACTS AUTHORIZING APPROPRIATIONS

ASSISTANCE TO CENTRAL AMERICA, TRANSFER OF FUNDS, 1988

Public Law 100-276

100th Congress, H.J. Res. 523

April 1, 1988

JOINT RESOLUTION

To provide assistance and support for peace, democracy, and reconciliation in Central America.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL POLICY.—It is the policy of the United States to advance peace and democracy in Central America, and to preserve and protect security interests in the region. Pursuant to that policy, it is the purpose of this joint resolution to assist in bringing peace and democracy to Central America, in a manner compatible with the Guatemala Peace Accord of August 7, 1987, the Declaration of the Presidents of the Central American Nations at San Jose, Costa Rica on January 16, 1988, the Agreement Between the Government of Nicaragua and the Nicaraguan Resistance signed March 23, 1988 at Sapoa, Nicaragua (hereinafter referred to as the "Sapoa Agreement") and consistent with the national security interests of the United States.

SEC. 2. CONSISTENCY WITH SAPOA AGREEMENT.—The assistance and support for which this joint resolution provides shall be administered consistent with the Sapoa Agreement. No authority contained in this joint resolution is intended to be exercised in any manner that might be determined by the Verification Commission established by the Sapoa Agreement to be inconsistent with that Agreement or any subsequent agreement between the Government of Nicaragua and the Nicaraguan democratic resistance.

SEC. 3. PURPOSE OF ADDITIONAL ASSISTANCE FOR THE NICARAGUAN DEMOCRATIC RESISTANCE.—(a) CONGRESSIONAL INTENT.—It is the intention of Congress in providing additional assistance to the Nicaraguan democratic resistance to reinforce the Central American peace process by supporting negotiations leading to a permanent negotiated ceasefire agreement. Such an agreement is seen by the Congress as an essential step towards the establishment of peace and democracy in Nicaragua. The Congress provides assistance under this section with the understanding and strong expectation that the Government of Nicaragua and the Nicaraguan democratic

resistance will cease permanently offensive military activities against each other and engage in good faith negotiations towards a permanent ceasefire.

(b) TRANSFER AND USE.—(1) The President is authorized to transfer to the Agency for International Development $17,700,000 of unobligated funds from the appropriations accounts specified in section 6 to provide assistance for the Nicaraguan democratic resistance in accordance with this joint resolution. Funds so transferred shall remain available through September 30, 1988. *$17,700,000 (by transfer)*

(2) The amount which is authorized to be transferred under paragraph (1) shall be reduced by the cost to the United States Government of any items or services described in subsection (c)(1) which were previously, specifically authorized by law for the Nicaraguan democratic resistance and which are delivered to the Nicaraguan democratic resistance under subsection (e).

(c) DESCRIPTION OF ASSISTANCE ALLOWED.—(1) As used in this section, "assistance" means only food, clothing, shelter, medical services, medical supplies, and payment for such items or services.

(2) The term "assistance" under this section also includes, to the extent consistent with the Sapoa Agreement, the use of not to exceed $1,500,000 of the funds made available under subsection (b) for the purchase of communications equipment.

(d) LIMITATIONS.—The amount of funds transferred under subsection (b) which is obligated each month for purchasing items and services described in subsection (c)(1)—

(1) for April and May 1988, shall not exceed $2,900,000, of which not less than $400,000 each month shall be available only for medical supplies and medical services; and

(2) for any month thereafter, shall not exceed $2,700,000, except that each such amount for any month shall be reduced by the cost to the United States Government of the items and services described in subsection (c)(1) (medical supplies and medical services in the case of the second amount specified in paragraph (1)) which were previously, specifically authorized by law for the Nicaraguan democratic resistance and which are delivered to the Nicaraguan democratic resistance under subsection (e) during that month.

(e) TRANSPORTATION.—(1) The President shall transfer to the Agency for International Development, from unobligated funds from the appropriations accounts specified, in section 6, such funds as may be necessary to provide, to the extent consistent with the Sapoa Agreement, transportation for the assistance authorized by subsection (b), including rental and indemnification of aircraft, trucks or other vehicles, and transportation for the items and services described in paragraph (3) of this subsection.

(2) Transportation provided under this subsection may not be used to deliver any assistance for the Nicaraguan democratic resistance other than the assistance authorized by subsection (b) and the items and services described in paragraph (3) of this subsection.

(3) Transportation may be provided under this subsection for items and services described in subsection (c)(1) which were previously, specifically authorized by law for the Nicaraguan democratic resistance.

(f) PROHIBITIONS.—(1) Funds transferred by subsections (b) or (e) may not be obligated or expended to purchase aircraft or weapons, weapons systems, or ammunition or any other item or service not permitted under subsection (c) or to provide any transportation other than transportation permitted under subsection (e).

(2) Except for items delivered under subsection (e)(3), no item authorized by "Title II—Central America" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) or section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202) may be provided to the Nicaragua democratic resistance.

(g) ASSISTANCE FOR YATAMA.—(1) In order to support all elements of the Nicaraguan democratic resistance, assistance authorized by subsection (b) (including the cost of the United States Government of items and services delivered under subsection (e)(3)) in the amount of $2,190,000 shall be provided only to the Indian resistance force known as Yatama.

(2) The Agency for International Development shall ensure that assistance under this subsection for Yatama is provided consistent with the Preliminary Accord signed by Yatama and the Government of Nicaragua on February 2, 1988, and any subsequent agreement based on that Accord.

SEC. 4. DIRECTION, MANAGEMENT AND DELIVERY.—(a) DELIVERY OF ASSISTANCE.—(1) The Agency for International Development shall direct, manage and provide for the delivery of assistance and support to the Nicaraguan democratic resistance through neutral organizations consistent with the Sapoa Agreement and as authorized by this joint resolution.

(2) The President shall transfer not to exceed $2,500,000 from the unobligated funds in the appropriations accounts specified in section 6 for "Operating Expenses of the Agency for International Development" to meet the necessary administrative expenses to carry out the purposes of this joint resolution. *$2,500,000 (by transfer)*

(b) INAPPLICABILITY OF CERTAIN PROHIBITIONS.—Prohibitions on the furnishing of foreign assistance to Nicaragua shall not be construed to apply to the provision within Nicaragua of the assistance authorized by this joint resolution.

(c) ACCOUNTABILITY STANDARDS, PROCEDURES, AND CONTROLS.—In implementing this joint resolution, the Agency for International Development shall adopt standards, procedures, and controls for the accountability of funds comparable to those applicable with respect to the assistance for the Nicaraguan democratic resistance provided under section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202).

(d) INTERAGENCY COOPERATION.—All Government agencies shall cooperate with the Agency for International Development to ensure the orderly, effective direction, management, and delivery by the Agency of assistance for the Nicaraguan democratic resistance. Such cooperation shall include detailing to the Agency, on a reimbursable basis, such personnel as the Agency, with the approval of the President, may request.

(e) SUPPLEMENTAL AUTHORITIES.—In addition to the authorities otherwise available by law to the Agency for International Development, in carrying out this joint resolution, the Agency for International Development may exercise the same authorities, including authorities relating to procurement and expenditure of Government funds other than confidential funds, as the agency administering the assistance provided pursuant to section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202) could exercise with respect to provision of that assistance.

SEC. 5. GENERAL AUTHORITIES AND LIMITATIONS.—(a) REQUIREMENTS DEEMED SATISFIED.—The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178), section 8144 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202), section 10 of Public Law 91-672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use, consistent with the provisions of this joint resolution, of the funds made available by this joint resolution.

(b) CONTINUATION OF LIMITATIONS.—Sections 203(e), 204(b), 207, 209(b), 209(c), and 216 in "Title II—Central America" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591), shall apply with respect to

funds made available by this joint resolution, except that section 216 shall not apply with respect to personnel of the Agency for International Development or the Department of State.

SEC. 6. DEFENSE APPROPRIATIONS ACCOUNTS.—The appropriations accounts to which this resolution refers are the following accounts in the Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190):

(1) Missile Procurement, Army;
(2) Other, Procurement, Army;
(3) Other Procurement, Navy;
(4) Missile Procurement, Air Force;
(5) Aircraft Procurement, Air Force; and
(6) Weapons Procurement, Navy;

except that section 1351 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661) shall apply.

SEC. 7. AUDIT OF FUNDS.—The Comptroller General shall conduct an independent audit of funds expended in the provision of assistance and support under this joint resolution.

SEC. 8. CHILDREN'S SURVIVAL ASSISTANCE.—(a) AUTHORIZATION.—The President shall transfer to the Agency for International Development $17,700,000 of unobligated funds from the appropriations accounts specified in section 6 to provide medical care and other relief for children who are victims of the Nicaraguan civil strife. Such assistance shall be used to make available prosthetic devices and rehabilitation, provide medicines and immunizations, assist burn victims, help children who have been orphaned, and otherwise provide assistance for children who have been physically injured or displaced by the Nicaraguan civil strife. Priority shall be given to those children with the greatest needs for assistance. Funds transferred pursuant to this subsection shall remain available until expended. *$17,700,000 (by transfer)*

(b) USE OF PVO'S AND INTERNATIONAL RELIEF ORGANIZATIONS.—Assistance pursuant to this section shall be provided only through nonpolitical private and voluntary organizations and international relief organizations. Preference in the distribution of such assistance shall be given to organizations presently providing similar services such as the Catholic Relief Services, International Committee of the Red Cross, CARE, United Nations Children's Fund, United Nations High Commissioner for Refugees, Partners of the Americas, and the Pan-American Health Organization.

(c) CHILDREN IN NICARAGUA.—At least one-half of the assistance provided under this section shall be provided through nonpolitical private and voluntary organizations and international relief organizations operating inside Nicaragua. None of this assistance may be provided to or through the Government of Nicaragua.

SEC. 9. VERIFICATION COMMISSION.—The President shall transfer to the Agency for International Development $10,000,000 of unobligated funds from the appropriations accounts specified in section 6 for periodic payments to support the activities of the Verification Commission established by the Sapoa Agreement. Funds transferred pursuant to this section shall remain available until expended. *10,000,000 (by transfer)*

Approved April 1, 1988.

LEGISLATIVE HISTORY—H.J. Res. 523

CONGRESSIONAL RECORD, VOL. 134 (1988):
Mar. 30, considered and passed House.
Mar. 31, considered and passed Senate.

Grand total, new budget (obligational) authority, Assistance to Central America, Transfer of Funds, 1988 ..... *47,900,000*

EMERGENCY MANDATORY VETERANS SUPPLEMENTAL APPROPRIATIONS, 1988

Public Law 100-304

100th Congress, H.J. Res. 552

April 29, 1988

JOINT RESOLUTION

Making emergency mandatory veterans supplemental appropriations for the fiscal year ending September 30, 1988.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1988, namely:

VETERANS ADMINISTRATION

LOAN GUARANTY REVOLVING FUND

For an additional amount for the "Loan Guaranty Revolving Fund", $526,600,000, to remain available until expended: *Provided,* That the last proviso in the "General operating expenses" appropriation in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1988 (H.R. 2783), as enacted under the provision of section 101(f) of Public Law 100-202, an Act Making Further Continuing Appropriations for the fiscal year ending September 30, 1988, is deleted. $526,600,000

READJUSTMENT BENEFITS

For an additional amount for "Readjustment benefits", $182,500,000, to remain available until expended. 182,500,000

Approved April 29, 1988.

LEGISLATIVE HISTORY—H.J. Res. 552
(Committee discharged)

CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 27, considered and passed House.
Apr. 28, considered and passed Senate.

Grand total, new budget (obligational) authority, Emergency Mandatory Veterans Supplemental Appropriations, 1988 709,100,000

AN ACT TO EXTEND THE LIFE OF THE COMMISSION ON THE UKRAINE FAMINE

Public Law 100-340

100th Congress, S. 2304

June 17, 1988

AN ACT

To amend the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986, to extend the life of the Commission on the Ukraine Famine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986 (Public Law 99-180; 99 Stat. 1157), is amended under the heading "COMMISSION ON THE UKRAINE FAMINE"—

(1) in section 3(2), by striking out "two years after the organizational meeting of the Commission held under section 6(a)" and inserting in lieu thereof "June 22, 1990"; and

(2) in section 4(b), by adding at the end the following: "A vacancy in the Commission shall be filled in the manner in which the original appointment was made.".

Approved June 17, 1988.

LEGISLATIVE HISTORY—S. 2304

CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 21, considered and passed Senate.
Apr. 25, referred to Foreign Affairs in House; rules suspended.
May 24, passed House amended.
June 7, Senate concurred in House amendment.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1988

Public Law 100-393

100th Congress, H.R. 5026

August 14, 1988

AN ACT

Making dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes, namely:

TITLE I—DIRE EMERGENCY PROGRAM SUPPLEMENTALS

To meet dire emergencies created by needs for State Unemployment Insurance and Employment Service Operations, the Black Lung Disability Trust Fund, Trade Adjustment Assistance and Small Business Disaster Assistance and for personnel, operations, and capital required to meet dire emergencies caused by the drought, disaster, and financial conditions:

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for "State unemployment insurance and employment service operations", $15,000,000 which shall be expended from the Employment Security Administration account in the Unemployment Trust Fund, to fund activities under section 6 of the Act of June 6, 1933, as amended (29 U.S.C. 49-49l-1; 39 U.S.C. 3202 (a)(1)(E)), including the cost of penalty mail made available to States in lieu of allotments for such purpose: *Provided,* That such amount shall be available for obligation for the period July 1, 1988, through June 30, 1989.

$15,000,000 (limitation on trust fund transfer)

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

(TRANSFER OF FUNDS)

In order to provide for the Black Lung Disability Trust Fund and for Trade Adjustment Assistance, such amounts for necessary advances for the fiscal year ending September 30, 1988, that exceed those provided in appropriations, may be derived from balances in the revolving fund established by 42 U.S.C. 1101(e).

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(BY TRANSFER)

For an additional amount for "Salaries and expenses", $10,300,000, to be derived by transfer from the "Business Loan and Investment Fund". *$10,300,000 (by transfer)*

BUSINESS LOAN AND INVESTMENT FUND

Outlays in fiscal year 1988 resulting from the use of funds appropriated under this heading may not exceed $204,105,000, not including transactions originated by the Federal Financing Bank.

To meet the dire emergency which requires increased drug interdiction activities and the enhancement of protection of life and property:

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

(TRANSFERS OF FUNDS)

For an additional amount for "Operating expenses", not to exceed $60,000,000 of which $69,467 shall be derived from unobligated balances of "Territorial highways"; $2,460,000 shall be derived from unobligated balances of "Motor carrier safety grants"; $129,000 shall be derived from unobligated balances of "Conrail labor protection"; $654,014 shall be derived from unobligated balances of "Facilities, engineering, and development"; not to exceed $22,000,000 shall be derived from funds recovered under sections 5, 9, and 18 of the Urban Mass Transportation Act of 1964, as amended, that would otherwise be reapportioned on or after October 1, 1988; $2,000,000 shall be derived from unobligated balances of "Research, training, and human resources" other than funding for the cold weather transit technology program and the phosphoric acid fuel cell bus technology program; not to exceed $6,000,000 shall be derived from unobligated balances of "Acquisition, construction, and improvements"; $5,000,000 shall be derived from unobligated balances of "Research, development, test, and evaluation"; $6,687,519 shall be derived from unobligated balances of "Pollution fund"; $1,600,000 shall be derived from unobligated balances of "Offshore oil pollution compensation fund"; and $1,400,000 shall be derived from unobligated balances of "Deepwater port liability fund". 12,000,000 *48,000,000 (by transfer)*

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

The sum of $12,000,000 of unobligated contract authority available for airport development and planning pursuant to section 505(a) of the Airport and Airway Improvement Act of 1982, as amended, is hereby rescinded. −12,000,000 *(rescission of contract authority)*

To meet the dire emergency created by the Mariel Cuban prisoner riots in Federal prisons and a deficiency in the United States Marshals Service:

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses, United States Marshals Service", $3,500,000 to remain available until expended to be derived by transfer from "Immigration and Naturalization Service, Salaries and expenses". *$3,500,000 (by transfer)*

SUPPORT OF UNITED STATES PRISONERS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Support of Prisoners", $23,300,000, to remain available until expended of which $8,300,000 shall be derived by transfer from the Immigration and Naturalization Service salaries and expenses. 15,000,000 *8,300,000 (by transfer)*

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For an additional amount for "Salaries and expenses, Community Relations Service", $6,000,000, to remain available until expended. 6,000,000

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $42,609,000, to remain available until expended. 42,609,000

[Total, Department of Justice:
[New budget (obligational) authority ..... $63,609,000.]
[By transfer ..... 11,800,000.]

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

EMERGENCY DROUGHT AUTHORITY

To meet the problems of the Mississippi River Basin, where the water is the lowest in history, with the River flowing north at New Orleans, with water systems endangered, and similar conditions elsewhere, the Secretary of the Army, acting through the Chief of Engineers, within existing law and within available funds, is directed to—

(a) conduct emergency drought relief activities for domestic, municipal, industrial, aquacultural and agricultural purposes in and adjacent to the Mississippi River and its tributaries. Such activities may include, but shall not be limited to, dredging of shoals impeding navigation; construction and operation of salt water intrusion barriers and associated facilities; transportation (by barge or other means) of potable water; and construction of water wells and necessary treatment and distribution facilities;

(b) as provided by existing law, in cooperation with local authorities, utilize water in any reservoir operated by the Secretary for emergency water supply purposes: *Provided*, That no additional authority to change the existing situation in regard to the Great Lakes or reservoirs at the headwaters of the Mississippi is provided by this language.

(c) provide technical assistance to State and local governments and public water agencies engaged in water conservation and drought management activities; and

(d) prepare regional drought management plans.

DEPARTMENT OF AGRICULTURE

ADMINISTRATIVE PROVISION

Because of the effects of the drought, financial, and other problems, the Department of Agriculture is urged to use all authority in existing law in addition to such additional authority as may be provided by the Congress, to enable those engaged in agriculture to stay in business and to prevent foreclosure and make their normal and essential contribution to the general economy.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed an additional $45,427,000 may be transferred to and merged with this appropriation from the Commodity Credit Corporation fund to meet the increased workload in the county offices as a result of the 1988 drought, and the portion thereof made available to county committees shall remain available until expended. *$45,427,000 (by transfer)*

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), $10,000,000, to remain available until expended, to be derived by transfer from the unobligated balances in emergency insured loans, Agricultural Credit Insurance Fund. *10,000,000 (by transfer)*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for necessary expenses of the Food and Drug Administration for product emergencies and AIDS, $5,500,000, to remain available until expended. 5,500,000

FUNDS APPROPRIATED TO THE PRESIDENT

DEPARTMENT OF STATE

UNITED STATES EMERGENCY MIGRATION AND REFUGEE ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended, $24,000,000 to remain available until expended: *Provided*, That not less than $6,000,000 shall be made available for Soviet and other Eastern European Refugees. 24,000,000

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

The amount made available in the appropriation under this heading in the Department of Commerce Appropriation Act, 1988, shall remain available until expended.

DEPARTMENT OF DEFENSE—MILITARY

ADMINISTRATIVE PROVISION

Of the funds available to the Department of Defense during the current fiscal year, not more than $14,000,000 may be transferred to "Federal Bureau of Investigation, Salaries and Expenses" to fund increased workload requirements due to INF treaty implementation: *Provided*, That such funds may be expended pursuant to authorities available to the Federal Bureau of Investigation: *Provided further*, That of this amount, $8,000,000 shall remain available until expended.

$14,000,000 (transfer)

DEPARTMENT OF STATE

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, funds appropriated to the Department of State in fiscal year 1988 may be used without reimbursement to carry out the provisions of section 6 of the Arms Control and Disarmament Amendments Act of 1987 (Public Law 100-213).

DEPARTMENT OF ENERGY

ADMINISTRATIVE PROVISION

The 30-day notice period for the review of the sale of the Great Plains gasification plant by Congress shall not commence earlier than August 25, 1988.

OTHER INDEPENDENT AGENCIES

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

In appropriation language under this heading in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988, delete the word "for"; add the following phrase at the beginning of the paragraph: "Notwithstanding section 501(b) of title V of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, for"; and delete the phrase "of which $20,000,000, to remain available until expended, shall become available for expenditure on October 1, 1988, and": *Provided*, That for purposes of section 202 of Public Law 100-119 (H.J. Res. 324, 100th Congress), this action is a necessary (but secondary) result of a significant policy change.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND PROGRAM MANAGEMENT

(TRANSFER OF FUNDS)

For an additional amount for "Research and program management", up to $19,600,000, which shall be derived by transfer from "Research and development" and "Space flight, control and data communications". *$19,600,000 (by transfer)*

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $498,100,000, to remain available until expended, and for an additional amount for "Medical care", $31,730,000, of which $21,730,000 is derived by transfer from the Veterans' Administration Loan Guaranty Revolving Fund: *Provided*, That the penultimate proviso in the appropriation language under the head "MEDICAL CARE" in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (H.R. 2783), as enacted in section 101(f) of Public Law 100-202 is deleted. 498,100,000 10,000,000 *21,730,000 (by transfer)*

[*Total, Veterans Administration:*
[*New budget (obligational) authority* ..... *$508,100,000.*]
[*By transfer* ..... *21,730,000.*]

TITLE II—GENERAL PROVISION

No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This Act may be cited as the "Dire Emergency Supplemental Appropriations Act, 1988".

Approved August 14, 1988.

LEGISLATIVE HISTORY—H.R. 5026

HOUSE REPORT No. 100-797 (Comm. on Appropriations).
SENATE REPORT No. 100-448 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, reported in the House.
July 27, considered and passed House.
Aug. 2, reported in the Senate.
Aug. 4 and 10, considered and passed Senate, amended and asked for a conference.
Aug. 11, House disagreed to certain Senate amendments and agreed to another with an amendment. Senate receded from its amendments and agreed to House amendment to a Senate amendment.

Grand total:	
New budget (obligational) authority (net)	$601,209,000
Appropriations	(613,209,000)
Rescission of contract authority	(−12,000,000)
By transfer	*(166,857,000)*
Transfer	*(14,000,000)*
Limitation on trust fund transfer	*(15,000,000)*
Total, new budget (obligational) authority, Dire Emergency Supplemental Appropriations Act, 1988 (net)	601,209,000

NOTE.—The following tabulation is a classification by departments and establishments of new budget (obligational) authority made or rescinded in the foregoing act:

Department or establishment	Amount
Department of Labor:	
Limitation on trust fund transfer	*($15,000,000)*
Small Business Administration:	
By transfer	*(10,300,000)*
Department of Transportation:	
Appropriation	12,000,000
Rescission of contract authority	−12,000,000
By transfer	*(48,000,000)*
Department of Justice:	
New budget (obligational) authority	63,609,000
By transfer	*(11,800,000)*
Department of Agriculture:	
By transfer	*(55,427,000)*
Department of Health and Human Services:	
New budget (obligational) authority	5,500,000
Foreign Assistance:	
New budget (obligational) authority	24,000,000
Department of Defense—Military:	
Transfer	*(14,000,000)*
National Aeronautics and Space Administration:	
By transfer	*(19,600,000)*
Veterans Administration:	
New budget (obligational) authority	508,100,000
By transfer	*(21,730,000)*
RECAPITULATION	
Grand total:	
New budget (obligational) authority (net)	601,209,000
Appropriations	(613,209,000)
Rescission of contract authority	(−12,000,000)
By transfer	*(166,857,000)*
Transfer	*(14,000,000)*
Limitation on trust fund transfer	*(15,000,000)*

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Public Law 100-459

100th Congress, H.R. 4782

October 1, 1988

AN ACT

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—DEPARTMENT OF COMMERCE

General Administration

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $2,000 for official entertainment, $40,404,000: *Provided,* That $250,000 shall be available for the Clearinghouse for State and Local Initiatives on Productivity, Technology and Innovation. $40,404,000

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $96,035,000. 96,035,000

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $517,304,000, to remain available until expended. 517,304,000

[*Total, Bureau of the Census, $613,339,000.*]

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $32,899,000. 32,899,000

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $182,028,000, of which (a) $1,400,000 is for a grant to the Crownpoint Institute of Technology in the State of New Mexico to assist in the rehabilitation and reconstruction of facilities, including site stabilization and drainage repairs; (b) $2,000,000 is for a grant to the Philadelphia Port Corporation in Philadelphia, Pennsylvania, for the Fruit Shed Expansion project at Tioga Marine Terminal I and Piers 82 and 84 to assist in the expansion of storage and handling facilities; (c) $4,500,000 is for a grant to the University of Kentucky in Lexington, Kentucky, to assist in the construction of the Advanced Science and Technology Commercialization Center; (d) $250,000 shall be obligated for the Center for International Trade Development at Oklahoma State University; (e) $600,000 is for a grant to Crittenden County, Arkansas, for use in replacing a health center; (f) $125,000 is for a grant to Arkansas State University, Jonesboro, Arkansas, for the establishment and first year operation of a university center under the provisions of the Public Works and Economic Development Act of 1965, as amended; (g) $1,700,000 is for a grant to the revolving loan fund established under the provisions of title XI of the Public Works and Economic Development Act of 1965, as amended, and administered by the East Arkansas Planning and Development District, Jonesboro, Arkansas, except that notwithstanding any other provision of law or regulation, no requirement for provision of matching funds shall be imposed as a condition for making this grant; (h) $2,400,000 is for a grant to the city of Beaumont, Texas, for the Spindletop Regional Development Project; (i) $200,000 is for a grant to Marshall University, Huntington, West Virginia, for the Marshall University Flexibility Manufacturing Proposal; (j) $200,000 is for a grant to Wheeling Jesuit College, Wheeling, West Virginia, for planning and technical assistance activities for establishment of a Software Development Center; (k) $2,250,000 is for grants for Projects A and B of the Special Impact Area Overall Economic Development Program for Polk County and the Cities of Des Moines and Ankeny, Iowa; and (l) $600,000 is for a grant to the Southeastern Area Technology Development Center, Inc., New London, Connecticut, for a demonstration project on the ability of a small business incubator to help diversify the economy of a defense-dependent region: *Provided,* That the Secretary of Commerce shall throughly review and evaluate each of the projects listed in subsections (a) through (l) of this paragraph and shall submit a report to the House and Senate Committees on Appropriations in March 1989 concerning the details and evaluation of each such project: *Provided further,* That the funds designated in subsections (a) through (l) of this paragraph shall be available for the national economic development assistance programs of the Economic Development Administration unless the House and Senate Appropriations Committees send letters to the Secretary of Commerce within 60 days of the submission of the report or June 1, 1989, whichever is later, on the projects listed in subsections (a) through (l) of this paragraph interposing no objection to the commencement of these projects: *Provided further,* That any sum in excess of the sum needed to comply with the House and Senate Appropriations Committees' letters for any of the projects listed in subsections (a) through (l) shall be available for the national economic development assistance programs of the Economic Development Administration: *Provided further,* That the Secretary of Commerce or his designees shall not promulgate or enforce

$182,028,000

any rule, regulation, or grant agreement provision affecting programs authorized by the Public Works and Economic Development Act of 1965, as amended, unless such rule, regulation, or provision is either required by statute or expressed as the explicit intent of the Congress or is in substantial conformity with those rules, regulations and provisions in effect prior to December 22, 1987: *Provided further,* That during fiscal year 1989 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration. *$150,000,000 (limitation on loan guarantees)*

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $24,742,000: *Provided,* That the number of Deputy Assistant Secretary positions shall not be greater than four: *Provided further,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1989, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and where possible, with those employees who filled those positions on that date. 24,742,000

[*Total, Economic Development Administration, $206,770,000.*]

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $300,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad; $167,502,000, to remain available until expended, of which $3,300,000 is for support costs for a new materials center in Ames, Iowa, and of which $7,060,000 is for the Office of Textiles and Apparels, including $3,360,000 for a grant to the Tailored Clothing Technology Corporation: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplo- 167,502,000

matic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further,* That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed eight.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arisé in foreign countries; not to exceed $5,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $40,106,000, to remain available until expended: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities. $40,106,000

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $39,705,000, of which $25,321,000 shall remain available until expended: *Provided,* That not to exceed $14,384,000 shall be available for program management for fiscal year 1988: *Provided further,* That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures. 39,705,000

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improve-

ment; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $12,000 for representation expenses abroad; $13,800,000. $13,800,000

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 439 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; $1,211,652,000, to remain available until expended; of which $3,000,000 shall be available for the EROS Data Center in South Dakota pursuant to section 602 of Public Law 98-365; and of which $1,941,500, including $941,500 previously appropriated, shall be available only for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and of which $377,000 shall be available only for a semitropical research facility located at Key Largo, Florida; and of which $1,700,000 is for the St. Paul Pribilof Island Trust; and in addition, $28,717,000 shall be derived from the Airport and Airways Trust Fund; and in addition, $45,600,000 shall be derived by transfer from the Fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $6,500,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided*, That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000. 1,211,652,000 28,717,000 *45,600,000 (by transfer)* *6,500,000 (by transfer)*

[*Total, operations, research, and facilities, $1,240,359,000.*]

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, $3,000,000, to remain available until expended, shall be made available as authorized by said Act: *Provided*, That $135,000 of this amount shall be available only for a grant to the Seafood Consumer Research and Education Center, Astoria, Oregon. *3,000,000 (availability of funds)*

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $719,000, to be derived from receipts collected pursuant to that Act, to remain available until expended. 719,000

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $1,919,000, to remain available until expended. 1,919,000

[*Total, National Oceanic and Atmospheric Administration, $1,243,007,000.*]

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, $109,000,000 and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended. $109,000,000

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $159,000,000, to remain available until expended, of which $250,000 shall be available for a grant to the Southwest Radiation Calibration Center at the University of Arkansas; and of which not to exceed $6,050,000 may be transferred to the "Working Capital Fund"; and of which $7,500,000 shall be for Regional Centers for Transfer of Manufacturing Technology; and of which $7,500,000 shall be used to develop and fund for the period January 1, 1989, through December 31, 1991, a cooperative agreement, with a non-Federal partner, for the establishment of a Center for Integrated Design, Non-Destructive Evaluation and Manufacturing. Of the funding provided for the Center for Integrated Design, Non-Destructive Evaluation and Manufacturing, 50 percent will be used for program operations and 50 percent for facilities development and equipment. The Institute will report to the House and Senate Committees on Appropriations on the status of the cooperative agreement with the Center for Integrated Design, Non-Destructive Evaluation and Manufacturing not later than February 1, 1989. 159,000,000

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $13,630,000 of which $700,000 shall remain available until expended. 13,630,000

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communication Act of 1934, as amended, $20,000,000, to remain available until expended: *Provided*, That not to exceed $1,500,000 shall be available for program management as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further*, That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: *Provided further*, That notwithstanding sections 391 and 392 of the Communications Act, as amended, up to $200,000 appropriated in this paragraph shall be available for the establishment and administration of the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT). 20,000,000

[*Total, National Telecommunications and Information Administration, $33,630,000.*]

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

SEC. 104. During the current fiscal year, the National Bureau of Standards is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

This title may be cited as the "Department of Commerce Appropriations Act, 1989".

[Total, title I, Department of Commerce:
[New budget (obligational) authority ..... $2,699,162,000.]
[By transfer ..... 52,100,000.]
[Limitation on loan guarantees ..... 150,000,000.]
[Availability of funds ..... 3,000,000.]

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $88,360,000: *Provided,* That balances previously made available for Federal Justice Research activities may be used for other activities of this account. $88,360,000

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $10,893,000. 10,893,000

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $242,994,000, of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1990: *Provided,* That of the funds available in this appropriation, not to exceed $5,000,000 shall be available for office automation systems for the legal divisions covered by this appropriation, and for 242,994,000

the United States Attorneys, the Antitrust Division, and offices funded through Salaries and expenses, General Administration, to remain available until expended: *Provided further*, That the Chief, United States National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit not more than $150,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $44,937,000. $44,937,000

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $391,212,000. 391,212,000

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, $47,370,000, to remain available until expended and to be derived from the Fund, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): *Provided*, That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That obligated balances remaining in the appropriation "Salaries and expenses, oversight of bankruptcy cases" as of September 30, 1988, be merged with the "United States Trustee System Fund". 47,370,000

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; $472,000. 472,000

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; $190,000,000: *Provided*, That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the United States Marshals Service may collect fees and expenses for the service of civil process, including: complaints, summonses, subpoenas and similar process; and seizures, levies, and sales associated with judicial orders of execution; and credit not to exceed $1,000,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services. 190,000,000

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $93,700,000, which shall remain available until expended; of which 93,700,000

not to exceed $5,000,000 shall be available under the Cooperative Agreement Program for the purposes of renovating, constructing, and equipping State and local correctional facilities: *Provided,* That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: *Provided further,* That following agreement on or completion of any federally assisted correctional facility construction, the availability of the space acquired for Federal prisoners with these Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances; $52,203,000, to remain available until expended, of which not to exceed $1,350,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites: *Provided,* That the Attorney General may enter into reimbursable agreements with other Federal Government agencies or components within the Department of Justice to pay expenses of private counsel to defend Federal Government employees sued for actions while performing their official duties. $52,203,000 *(indefinite)*

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $27,858,000, of which not to exceed $20,667,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided,* That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act. 27,858,000

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524, as amended by the Comprehensive Forfeiture Act of 1984 and the Anti-Drug Abuse Act of 1986, $75,000,000 to be derived from the Department of Justice Assets Forfeiture Fund. 75,000,000

[*Total, legal activities, $1,165,746,000.*]

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,600 passenger motor vehicles of which 1,850 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and

hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,424,100,000, of which not to exceed $15,100,000 for INF treaty activities shall remain available until expended; of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1990; of which not to exceed $3,000,000 for research related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism: *Provided,* That the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further,* That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $11,358,000 for a language translation system shall remain available until expended. $1,424,100,000

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed 549 passenger motor vehicles of which 489 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $505,000,000, of which not to exceed $1,200,000 for research shall remain available until expended; and of which not to exceed $1,700,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, not to exceed $2,000,000 for technical equipment, and not to exceed $15,150,000 for aircraft and equipment shall remain available until September 30, 1990. 505,000,000

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 525, of which 512 shall be for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $800,000,000, of which not to exceed $400,000 for research shall remain available until expended: *Provided,* That none of the funds available to the Immigration and 800,000,000

Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That capital assets acquired by the Immigration Legalization account may be made available for the general use of the Immigration and Naturalization Service after they are no longer needed for immigration legalization purposes.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 159 of which 109 are for replacement only) and hire of law enforcement and passenger motor vehicles; $953,012,000: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That of the amount appropriated under this heading, $4,204,000 shall be for "Federal Prison Industries" to replace equipment destroyed during the Mariel Cuban disturbances. $953,012,000

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351–4353 of title 18, United States Code, which established a National Institute of Corrections, $9,590,000, to remain available until expended. 9,590,000

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $203,693,000 to remain available until expended: *Provided,* That labor of United States prisoners may be used for work performed under this appropriation: *Provided further,* That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act. 203,693,000

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, including not to exceed $20,000,000 in borrowing authority in fiscal year 1989 from the Secretary of the Treasury as authorized in legislation enacted subsequent to this Act, and to make such contracts and commitments, without regard to fiscal year limitations as provided by *20,000,000 (limitation on borrowing authority)*

section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,374,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed $4,677,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

$2,374,000 (limitation on administrative expenses)
4,677,000 (limitation on administrative expenses)

[*Total, Limitation, $7,051,000.*]

[*Total, Federal prison system, $1,166,295,000.*]

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, Runaway Youth and Missing Children Act Amendments of 1984, and the Missing Children Assistance Act, including salaries and expenses in connection therewith, $89,383,000 to remain available until expended, of which $3,497,000 is provided for programs authorized under part E of the Justice Assistance Act of 1984, notwithstanding the provisions of section 407 of such Act, including $2,300,000 for the National Crime Prevention Campaign and $1,000,000 for Operational Information Systems Support. 89,383,000

In addition, for grants as authorized by the State and Local Law Enforcement Assistance Act of 1986 (Public Law 99-570, 100 Stat. 3207-42 to 3207-48), including salaries and expenses in connection therewith, $70,000,000, to remain available until expended, of which not less than $1,500,000 shall be made available for drug abuse demand reduction programs authorized under 42 U.S.C. 3761. 70,000,000

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $64,692,000, to remain available until expended, and in addition, $2,000,000, to remain available until expended, to be derived from deobligated funds previously awarded under title II, part B, subparts I and II of the Juvenile Justice and Delinquency Prevention Act. 64,692,000

In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1988, through September 30, 1989, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided,* That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by 5,000,000

February 1, 1989, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further,* That the Attorney General, not later than April 1, 1989, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further,* That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

[*Total, Office of Justice Programs, $229,075,000.*]

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $75,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. Notwithstanding any other provision of law, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

SEC. 203. Appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96–132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1989, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1989, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1989, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1989—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operations, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are conducted, or

(ii) covert activities are concluded, whichever, occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" means any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 205. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided,* That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 206. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 207. Nothing in the preceding section shall remove the obligation of the director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided,* That nothing in this section in any way diminishes the effect of section 206 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 208. (a) Notwithstanding subsections (c) and (d) of section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42

U.S.C. 5633), failure to achieve compliance with the requirements of subsection (a)(14) of such section within the five-year time limitation specified in such subsection (a)(14) shall terminate any State's eligibility for funding for fiscal year 1989 under subpart I of part B of title II of such Act unless the Administrator of the Office of Juvenile Justice and Delinquency Prevention—

(1) determines, in the discretion of the Administrator, that such State has—

(A)(i) removed not less than 75 percent of juveniles from jails and lockups for adults; or

(ii) achieved substantial compliance with such subsection (a)(14); and

(B) made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time, not to exceed three additional years; or

(2) waives the termination of the State's eligibility on the condition that the State agrees to expend all of the funds to be received under such subpart for such fiscal year by the State (excluding funds required to be expended to comply with subsections (c) and (d) of section 222) of such Act, only to achieve compliance with such subsection (a)(14).

(b) Except as provided in subsection (a) of this section, failure to achieve compliance with the requirements of subsection (a)(14) of section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) after December 8, 1985, shall terminate any State's eligibility for funding for fiscal year 1989 under subpart I of part B of title II of such Act unless the Administrator waives the termination of the State's eligibility on the condition that the State agrees to expend all of the funds to be received for such fiscal year under such subpart by the State (excluding funds required to be expended to comply with subsections (c) and (d) of section 222) of such Act, only to achieve compliance with section 223(a)(14) of such Act.

(c) For purposes of subsection (a)(1)(A)(ii) of this section, a State may demonstrate that it is in substantial compliance with section 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(14)) by showing that it has—

(1) removed all juvenile status offenders and nonoffenders from jails and lockups for adults;

(2) made meaningful progress in removing other juveniles from jails and lockups for adults;

(3) diligently carried out the State's plan to comply with such secton 223(a)(14); and

(4) historically expended, and continues to expend, to comply with such section 223(a)(14) an appropriate and significant share of the funds received by the State under subpart I of part B of title II of such Act.

(d) Authorities contained in this section shall remain in effect until the termination date of this Act or until the effective date of an Act to authorize appropriations for fiscal year 1989 for Juvenile Justice and Delinquency Prevention programs, whichever is earlier.

SEC. 209. (a) Title 8, United States Code, section 1356 is amended by adding the following new subsections:

"(m) Notwithstanding any other provisions of law, all adjudication fees as are designated by the Attorney General in regulations shall be deposited into a separate account entitled 'Immigration Examinations Fee Account' in the Treasury of the United States, whether collected directly by the Attorney General or through clerks of courts: *Provided, however,* That all fees received by the Attorney General from applicants residing in the Virgin Islands of the United

States, and in Guam, under this subsection shall be paid over to the treasury of the Virgin Islands and to the treasury of Guam.

"(n) All deposits into the 'Immigration Examinations Fee Account' in excess of $50,000,000 shall remain available until expended to the Attorney General to reimburse any appropriation the amount paid out of such appropriation for expenses in providing immigration adjudication and naturalization services and the collection, safeguarding and accounting for fees deposited in and funds reimbursed from the 'Immigration Examinations Fee Account'. At least annually, deposits in the amount of $50,000,000 shall be transferred from the 'Immigration Examinations Fee Account' to the General Fund of the Treasury of the United States.

"(o) The Attorney General will prepare and submit annually to Congress statements of financial condition of the 'Immigration Examinations Fee Account', including beginning account balance, revenues, withdrawals, and ending account balance and projections for the ensuing fiscal year.

"(p) The provisions set forth in subsections (m), (n), and (o) of this section apply to adjudication and naturalization services performed and to related fees collected on or after October 1, 1988.".

(b) Title 8, United States Code, section 1455(g) is amended by inserting after "Treasury of the United States" the following: "except that all fees collected by the Attorney General on or after October 1, 1988, under the provisions of this subchapter, shall be deposited in the 'Immigration Examinations Fee Account' in the Treasury of the United States established pursuant to the provisions of sections 286 (m), (n), (o), and (p)".

SEC. 210. (a) IN GENERAL.—Section 101(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(2)) is amended by inserting before the period at the end the following: ", except that, for purposes of paragraph (1)(F) in the case of an illegitimate child described in paragraph (1)(D) (and not described in paragraph (1)(C)), the term 'parent' does not include the natural father of the child if the father has disappeared or abandoned or deserted the child or if the father has in writing irrevocably released the child for emigration and adoption".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 315 of the Immigration Reform and Control Act of 1986 and shall expire on October 1, 1989.

SEC. 211. None of the funds appropriated or made available by this Act shall be used prior to October 1, 1989, to issue or implement any final rule in the rulemaking proceeding commenced August 8, 1986 (51 Fed. Reg. 28576-28589).

This title may be cited as the "Department of Justice Appropriations Act, 1989".

[*Total, title II, Department of Justice:*
[*New budget (obligational) authority*..... *$5,389,469,000.*]
[*Limitation on borrowing authority* ..... *20,000,000.*]
[*Limitation on administrative expenses*..... *7,051,000.*]

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

Notwithstanding section 110 of Public Law 100-204, for necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and bi-

national contracts (including obligations assumed in Germany on or after June 5, 1945) and expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; representation to certain international organizations in which the United States participates pursuant to treaties, ratified by the Senate, conventions, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, except that passenger motor vehicles with additional systems and equipment may be purchased without regard to any price limitation otherwise established by law as authorized by 31 U.S.C. 1343(c), $1,784,000,000; and in addition not to exceed $250,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 38(b)(3)(A) of such Act (section 1255(c) of Public Law 100-204).

$1,784,000,000
250,000
(special fee)

[*Total, salaries and expenses, $1,784,250,000.*]

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,590,000. 4,590,000

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided for, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,100,000. 9,100,000

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), $240,021,000, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies. 240,021,000

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $4,500,000, to remain available until expended as authorized by 22 U.S.C. 2696(c). 4,500,000

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $10,890,000. 10,890,000

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $107,684,000. 107,684,000

[*Total, Administration of Foreign Affairs, $2,161,035,000.*]

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

Notwithstanding section 102(a) (1) through (11) of Public Law 100-204, for expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified by the Senate, conventions or specific Acts of Congress, $485,940,000: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings. $485,940,000

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces as authorized by law, $29,000,000. 29,000,000

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $6,000,000, to remain available until expended as authorized by 22 U.S.C. 287(e), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 2269 and 4085. 6,000,000

[*Total, International Organizations and Conferences, $520,940,000.*]

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties ratified by the Senate, conventions or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, operations and maintenance of the interceptor system to be constructed to intercept sewage flows from Tijuana and from selected canyon areas as currently planned, and the operation and maintenance upon completion of the proposed Environmental Protection Agency and Corps of Engineers pipeline and plant project to capture Tijuana sewage flows in the event of a major breakdown in Mexico's conveyance system, $10,261,000: *Provided*, That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89). 10,261,000

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, including the Rio Grande Rectification Improvement project, to remain available until expended as authorized by 22 U.S.C. 2696(c), $3,166,000. $3,166,000

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, $4,316,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain. 4,316,000

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $10,548,000: *Provided,* That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 529. 10,548,000

[*Total, International Commissions, $28,291,000.*]

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For necessary expenses, not otherwise provided, for Bilateral Science and Technology Agreements, as authorized by section 105 of Public Law 100-204, $2,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c). 2,000,000

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation as authorized by section 601 of Public Law 100-204, $13,700,000, to remain available until expended as authorized by 22 U.S.C. 2696(c). 13,700,000

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98-164, $4,600,000. 4,600,000

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $1,725,000, of which $900,000 is to be derived from the receipts collected pursuant to that Act, to remain available until expended. 1,725,000

[*Total, Other, $22,025,000.*]

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 302. The Secretary of State shall report to the appropriate committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every month.

SEC. 303. (a) Section 303 of the Department of State Appropriations Act, 1988 (as contained in section 101(a) of Public Law 100-202), is amended in the first sentence—

(1) by striking out "$290,000" and inserting in lieu thereof "$340,000"; 50,000

(2) by striking out "and"; and

(3) by inserting after "Public Law 86-420" the following: ", and section 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985.".

(b) Section 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985, is amended—

(1) by striking out "Of the amounts" and inserting in lieu thereof "There are";

(2) by striking out "for 'International Organizations and Conferences' "; and

(3) by striking out "may be used".

(c) The amendments made by this section shall take effect on October 1, 1988.

SEC. 304. (a) Section 8 of the United Nations Participation Act of 1945 is amended as follows:

(1) by adding the words "serving abroad" after the words "in section 2 of this Act";

(2) by adding the word "abroad" after the words "such living quarters"; and

(3) by deleting the last sentence of that section.

(b) Section 9 of the United Nations Participation Act of 1945 is amended as follows:

(1) by deleting all but subsection (2);

(2) by renumbering subsection (2) as (3) and deleting the word "President" therein and inserting the word "Secretary" in lieu thereof; and

(3) by inserting the following:

"SEC. 9. The Secretary of State may, under such regulations as he shall prescribe, and notwithstanding section 3648 of the Revised Statutes (31 U.S.C. 3324) and section 5536 of title 5, United States Code:

"(1) Make available to the Representative of the United States to the United Nations and the Deputy Permanent Representative of the United States to the United Nations living quarters leased or rented by the United States (for periods not exceeding ten years) and allowances for unusual expenses incident to the operation and maintenance of such living quarters similar to those and to be considered for all purposes as authorized by section 22 of the Administrative Expenses Act of 1946, as amended by section 311 of the Overseas Differentials and Allowances Act.

"(2) Make available in New York to no more than 18 foreign service employees of the staff of the United States Mission to the United Nations, other representatives, and no more than two employees who serve at the pleasure of the Representative, living quarters leased or rented by the United States (for periods not exceeding ten years). The number of employees to which such quarters will be made available shall be determined by the Secretary and shall reflect a significant reduction over the number of persons eligible for housing benefits as of the date of enactment of this provision. No employee may occupy a unit under this provision if the unit is owned by the employee. The Secretary shall require that each employee occupying housing under this subsection contribute to the Department of State a percentage of his or her base salary, in an amount to be determined by the Secretary of State, toward the cost of such housing. The Secretary may reduce such payments to the extent of income taxes paid on the value of the leased or rented quarters any payments made by employees to the Department of State for occupancy by them of living quarters leased or rented under this section shall be credited to the appropriation, fund, or account utilized by the Secretary of State for such lease

or rental or to the appropriation, fund, or account currently available for such purpose.

"(4) The Inspector General shall review the program established by this section no later than December 1989 and periodically thereafter with a view to increasing cost savings and making other appropriate recommendations.".

(c) TRANSITION PROVISIONS.—

(1) Provisions set forth in this section shall be effective July 1, 1989.

(2) In the event that taxes paid by an employee on the benefit provided under subsection (2) of section 9 exceed the contribution amount computed as a percentage of base salary under that subsection, the Department of State may reimburse the employee up to the amount of such differential for the period from the date of enactment of this Act through July 1, 1989.

SEC. 305. Notwithstanding section 130 of the Foreign Relations Authorization Act, Fiscal Years 1988-89 and section 414 of the Diplomatic Security Act and any other provisions of law, such funds as are authorized, or that may be authorized, under the Diplomatic Security Act or any other statute, and appropriated to the Department of State under this or any other Act, may be hereafter obligated or expended for site acquisition, development, and construction of two new diplomatic facilities in Israel, Jerusalem, or the West Bank, provided that each facility (A) equally preserves the ability of the United States to locate its Ambassador or its Consul General at that site, consistent with United States policy; (B) shall not be denominated as the United States Embassy or Consulate until after construction of both facilities has begun, and construction of one facility has been completed, or is near completion; and (C) unless security considerations require otherwise, commences operation simultaneously.

SEC. 306. (a) FINDINGS.—The Congress finds that—

(1) The Senate in Public Law 99-399 and S. Res. 31 has twice called on the Secretary of State to review United States policy with respect to the continued recognition of the Soviet puppet regime in Afghanistan and continued United States diplomatic presence in Kabul to determine whether such recognition and presence is in the interest of the United States and the people of Afghanistan.

(2) The majority and minority leaders of the United States Senate in a letter dated June 15, 1988, called for the appointment of an Ambassador at Large on Afghanistan to coordinate United States policies and programs with the Afghan Resistance.

(3) The Under Secretary of State for Political Affairs, appearing before the Senate Foreign Relations Committee on June 23, 1988, acknowledged that the dangers to the security of American personnel in Kabul, Afghanistan, would be expected to grow in the months ahead.

(4) After more than eight years of warfare, the Resistance continues to control eighty percent of the territory of Afghanistan and has been instrumental in delivering social services and humanitarian resources inside Afghanistan.

(5) The Administration has never responded in a comprehensive manner to the requests enumerated in paragraphs (1) and (2).

(b) IT IS THE SENSE OF THE CONGRESS THAT.—

(1) The Administration should intensify its political dialogue with the Afghan Resistance and interact positively with their political and economic institutions.

(2) The United States should actively seek first-hand information on military and political developments in Afghanistan from

the Afghan Resistance and should not rely solely on other countries for such information.

(3) The President should confer diplomatic recognition at an appropriate time on an Afghan Government constituted by the Afghan Resistance that is broad based and genuinely representative of the Afghan people or a government that is directly elected by the Afghan people in a free and fair election.

(c)(1) There is established in the Department of State the position of special envoy to the Afghan Resistance who shall be appointed by the President.

(2) The special envoy shall hold the personal rank of Ambassador, and shall coordinate United States policies and programs with the Afghan Resistance.

(3) It is the sense of the Congress that not later than 30 days after the date of enactment of this Act, the President should exercise the authority under section 302(a)(2)(B) of the Foreign Service Act of 1980 to confer the rank of Ambassador on an individual who shall serve as the special envoy to the Afghan Resistance.

This title may be cited as the "Department of State Appropriations Act, 1989".

[*Total, title III, Department of State, new budget (obligational) authority, $2,732,341,000.*]

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $15,901,000. $15,901,000

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), $2,131,000, of which $75,000 shall remain available until expended. 2,131,000

[*Total, Supreme Court of the United States, $18,032,000.*]

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $8,300,000. 8,300,000

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, as authorized by law, $8,000,000. $8,000,000

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, including the purchase of firearms and ammunition, $1,135,000,000: *Provided,* That of the total amount appropriated, $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions: *Provided further,* That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship, exclusive of the seven attorneys assigned preargument conference duties: *Provided further,* That, notwithstanding any other provision of law, not to exceed $1,500,000 for expenses of the Claims Court associated with processing cases under the National Childhood Vaccine Injury Act of 1986 shall be reimbursed from the special fund established to pay judgments awarded under the Act: *Provided further,* That any funds hereafter collected by the Judiciary as a charge for services rendered in administering accounts kept in a court's registry shall be deposited into a separate account entitled "Registry Administration Account" in the Treasury of the United States. Such funds shall remain available to the Judiciary until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the Courts of Appeals, District Courts and Other Judicial Services and the Administrative Office of the United States Courts: *Provided further,* That such sums as may be available in the fund established pursuant to 28 U.S.C. 1931 may be credited to this appropriation as authorized by section 407(c) of the Judiciary Appropriation Act, 1987 (Public Law 99-591; 100 Stat. 3341-64). 1,135,000,000

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), and the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d); $95,100,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i). 95,100,000

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; refreshments of jurors; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $43,135,000, to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code. $43,135,000

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities; $41,423,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General. 41,423,000

[*Total, Courts of Appeals, District Courts, and Other Judicial Services, $1,314,658,000.*]

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel, as authorized by 31 U.S.C. 1345 hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $33,600,000, of which an amount not to exceed $5,000 is authorized for official reception and representation expenses. 33,600,000

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $11,200,000. 11,200,000

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $5,183,000. 5,183,000

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. The position of Trustee Coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

SEC. 404. Notwithstanding any other provision of law, the Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. The Director of the Administrative Office of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. The provisions of this paragraph shall terminate on October 1, 1989.

SEC. 405. Such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

SEC. 406. Section 603 of title 28, United States Code, is amended by striking "three" and inserting in lieu thereof "six".

SEC. 407. The second paragraph of section 332(f) of title 28, United States Code, is amended by striking "level V" and inserting in lieu thereof "level IV".

This title may be cited as "The Judiciary Appropriations Act, 1989".

[*Total, title IV, the Judiciary, new budget (obligational) authority, $1,398,973,000.*]

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

READY RESERVE FORCE

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $110,751,000, to remain available until expended, of which $3,000,000 shall be available for maintenance and related expenses of the National Defense Reserve Fleet: *Provided,* That reimbursement may be made to the Operations and Training appropriation for expenses related to this program. $110,751,000

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $248,900,000, to remain available until expended. *248,900,000 (liquidation of contract authority)*

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $66,250,000, to remain available until expended: *Provided,* That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated. 66,250,000

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided,* That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

[*Total, Department of Transportation, $177,001,000.*]

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $55,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $31,030,000. $31,030,000

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to Radio Free Europe/Radio Liberty, Incorporated as authorized by the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2871-2880), $194,900,000, of which not to exceed $52,000 may be made available for official reception and representation expenses as authorized by section 304(a)(8) of the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2873(a)(8)). 194,900,000

ISRAEL RELAY STATION

For an additional amount for the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to implement the agreement signed on June 18, 1987, between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America, $33,000,000, to remain available until expended. 33,000,000

[*Total, Board for International Broadcasting, $227,900,000.*]

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission as authorized by Public Law 98-

375, $212,000, to remain available until November 15, 1992, as authorized by section 11(b) of Public Law 98-375. $212,000

COMMISSION ON AGRICULTURAL WORKERS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Agricultural Workers as authorized by section 304 of Public Law 99-603 (100 Stat. 3431-3434), $500,000. 500,000

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution authorized by Public Law 98-101 (97 Stat. 719-723), $11,436,000, to remain available until expended, of which $4,500,000 is to be derived from unobligated balances made available under this heading in previous appropriations Acts, and of which $7,500,000 is for carrying out the provisions of Public Law 99-194, including $2,992,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $4,508,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act. 6,936,000

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $5,707,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities: *Provided,* That not to exceed $20,000 may be used to employ consultants: *Provided further,* That not to exceed $185,000 may be used to employ temporary or special needs appointees: *Provided further,* That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service, exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 11 salary under the General Schedule: *Provided further,* That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: *Provided further,* That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days: *Provided further,* That the General Accounting Office shall audit the Commission's use of this appropriation under such terms and conditions as deemed appropriate by the Comptroller General and shall report its findings to the Appropriations Committees of the Senate and House of Representatives. 5,707,000

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $741,000, to remain available until expended as authorized by section 3 of Public Law 99-7. 741,000

COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Commission for the Study of International Migration and Cooperative Economic Development as authorized by title VI of Public Law 99-603, $1,290,000. $1,290,000

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $180,712,000, of which $900,000 shall be used to conduct a study in cooperation with the National Academy of Sciences to analyze the potential consequences of the elimination of mandatory retirement on institutions of higher education, as authorized by Public Law 99-592 (100 Stat. 3344): *Provided,* That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR sections 1627.16(c) (1)-(3)), shall not have effect during fiscal year 1989: *Provided further,* That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act, except that this proviso shall not preclude the Commission from investigating or processing claims of age discrimination, and pursuing appropriate relief in Federal court, regardless of whether an unsupervised waiver of rights has been sought or signed. 180,712,000

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000, for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed ten) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $99,613,000, of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1990, for research and policy studies: *Provided,* That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in the Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 60 F.C.C. 2d 607 Rev. Bd. (1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86-484 with a reinstatement of prior policy and a lifting of suspension of any sales, 99,613,000

licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: *Provided further,* That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further,* That none of the funds appropriated by this Act may be used to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer such rules of the Federal Communications Commission as set forth at section 73.3555(c) of title 47 of the Code of Federal Regulations: *Provided further,* That the authority under the Supplemental Appropriations Act, 1985 (Public Law 99-88) with respect to the relocation of the Fort Lauderdale Monitoring Station shall extend through fiscal year 1989 and under the same terms and conditions of Public Law 99-88. $742,000 *(reappropriation, indefinite)*

[Total, Federal Communications Commission, $100,355,000.]

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $13,585,000: *Provided,* That not to exceed $1,500 shall be available for official reception and representation expenses. 13,585,000

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $66,243,000: *Provided,* That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374). 66,243,000

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $35,958,000. 35,958,000

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,415,000; and an amount of Japanese currency not to exceed the 1,415,000 *(trust funds)*

equivalent of $1,700,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94-118. *$1,700,000 (foreign currency)*

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $308,555,000 of which $264,349,000 is for basic field programs, $7,022,000 is for Native American programs, $9,698,000 is for migrant programs, $1,100,000 is for law school clinics, $1,000,000 is for supplemental field programs, $624,000 is for regional training centers, $7,228,000 is for national support, $7,843,000 is for State support, $865,000 is for the Clearinghouse, $510,000 is for computer assisted legal research regional centers, and $8,316,000 is for Corporation management and administration. 308,555,000

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $953,000. 953,000

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $15,229,000, of which $1,000,000 shall remain available until expended: *Provided,* That not to exceed $69,000 shall be available for official reception and representation expenses. 15,229,000

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $142,640,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Association of Securities Commissioners. 142,640,000

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles and not to exceed $2,500 for official reception and representation expenses, $228,490,000, of which $45,000,000 shall be available for grants for performance in fiscal year 1989 or fiscal year 1990 for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended: *Provided,* That not more than $350,000 of this amount shall be made available to pay the expenses of the National Small Business Development Center Ad- 228,490,000

visory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further,* That none of the funds appropriated or made available by this Act or otherwise appropriated or made available to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648) nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987, unless specifically approved by the Committees on Appropriations under reprogramming procedures except that this provision shall not apply to uniform common rules applicable to multiple Federal departments and agencies including the Small Business Administration; nor may any of such funds be used to restrict in any way the right of association of participants in such program: *Provided further,* That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee unless specifically permitted by subsequently enacted authorizing legislation: *Provided further,* That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee unless the Administration notifies the Appropriations Committees of the Senate and the House of Representatives and the Committees on Small Business of the Senate and the House of Representatives at least 30 days prior to the imposition of such fee. In addition, such sums as may be necessary for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund". *$88,669,000 (by transfer, indefinite)*

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster Loan Fund", the "Business Loan and Investment Fund", the "Lease Guarantees Revolving Fund", the "Pollution Control Equipment Contract Guarantees Revolving Fund", and the "Surety Bond Guarantees Revolving Fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $85,500,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $82,000,000, to remain available without fiscal year limitation: *Provided,* That no funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987: *Provided further,* That up to $5,000,000 of the unobligated balances available in the "Business Loan and Investment Fund" may be transferred to "Salaries and

85,500,000

82,000,000

Expenses", Small Business Administration upon notification by the Administrator to the Committees on Appropriations of the House and Senate in compliance with provisions set forth in section 606 of this Act.

[*Total, Business Loan and Investment Fund, $167,500,000.*]

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $9,497,000, to remain available without fiscal year limitation. $9,497,000

POLLUTION CONTROL EQUIPMENT CONTRACT

GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $13,656,000, to remain available without fiscal year limitation. 13,656,000

[*Total, Small Business Administration, $419,143,000.*]

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, $10,980,000, to remain available until expended: *Provided,* That authorities contained in Public Law 98-620, The State Justice Institute Act of 1984, shall remain in effect until the termination date of this Act or until the effective date of a State Justice Institute Authorization Act, whichever is earlier. 10,980,000

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of this appropriation), as authorized by 22 U.S.C. 1471, expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000 as authorized by 22 U.S.C. 1474(3); $620,347,000, none of which shall be restricted from use for the purposes appropriated herein and of which $38,500,000 shall be available for the Television and Film Service: *Provided,* That not to exceed $1,132,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further,* That not to exceed $9,546,300 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further,* That not to exceed $500,000 shall 620,347,000

remain available until expended as authorized by 22 U.S.C. 1477(b), for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535–1536: *Provided further,* That not to exceed $4,650,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion picture, and television programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That the funds appropriated by this paragraph shall be available notwithstanding section 201(2) and 301(a)(6) of Public Law 100–204 and notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That the funds appropriated in this paragraph shall be available as authorized by Reorganization Plan No. 2 of 1977 (91 Stat. 1636).

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Private Sector, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), Reorganization Plan No. 2 of 1977 (91 Stat. 1636) $150,040,000, of which $9,290,000 is for Private Sector programs including up to $1,500,000, to remain available until expended, for the Eisenhower Exchange Fellowship Program. $150,040,000

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $65,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a): *Provided,* That not to exceed $7,500,000 of these funds may be available for the purchase, rent, construction, improvement and equipping of facilities for and startup operations including a test of television broadcasting to Cuba: *Provided further,* That in conducting such startup operations the United States Information Agency shall use a tethered aerostat operated and located at Cudjoe Key Air Force Base in Key West, Florida, if feasible and subject to reimbursement, for both the United States Customs Service's drug interdiction efforts and the United States Information Agency's test of television broadcasting to Cuba: *Provided further,* That the Department of Defense shall provide the necessary military support required to support this effort to the maximum extent possible: *Provided further,* That all such television broadcasting activities shall be conducted for the same purposes and, to the extent feasible, under the same conditions, direction and controls as the radio broadcasting activities authorized by the Radio Broadcasting to Cuba Act: *Provided further,* That notwithstanding the preceding proviso, section 7 of the Radio Broadcasting to Cuba Act shall not apply to television broadcasting station licensees. 65,000,000

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti Program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $11,175,000. 11,175,000

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS–18 of the Classification Act of 1949, as amended, exclusive of any cap on such rate. $20,000,000

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $15,800,000. 15,800,000

[Total, United States Information Agency, $882,362,000.]

[Total, title V, Related Agencies:

[New budget (obligational) authority	*$2,629,447,000.]*
[Appropriations, definite	*2,628,705,000.]*
[Reappropriations, indefinite	*742,000.]*
[By transfer	*88,669,000.]*
[Liquidation of contract authority	*248,900,000.]*
[Foreign currency appropriation	*1,700,000.]*

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1989 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1989 at not less than $8.58 per poor person within the geographical area of each grantee or contractor under the 1980 census or 2 cents per poor person more than the annual per-poor-person level at which each grantee and contractor was funded in fiscal year 1988, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under (1) above, falls below $15.75 per poor person within its geographical area under the 1980 census:

Provided, That none of the funds appropriated in this Act for the

Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency;

(2) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director of a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expense and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill:

except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used to pay for any administrative or related costs associated with an activity prohibited in clause (1), (2), (3), or (4) of the previous proviso: *Provided further,* That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: *Provided further,* That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal

assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this Act shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for a hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or suspend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance: *Provided further,* That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act: *Provided further,* That none of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1989, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with the preceding restrictions and provisos, except that such funds may be expended for the continued representation of aliens prohibited by said provisos where such representation commenced prior to January 1, 1983, or as approved by the Corporation: *Provided further,* That if a Presi-

dential Order pursuant to Public Law 100–119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1989, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential Order: *Provided further,* That if funds become available to the Legal Services Corporation because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs to be distributed in the manner specified by this Act: *Provided further,* That none of the funds appropriated by this Act or prior Acts or any other funds available to the Corporation or a recipient may be used by an officer, board member, employee or consultant of the Corporation or by any recipient to implement or enforce the 1984 and 1986 regulations on legislative and administrative advocacy (Part 1612) or to implement, enforce or keep in effect provisions in the regulation regarding legislative and administrative advocacy and training (Part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds except to the extent that such restrictions are explicity set forth in sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the Legal Services Corporation Act, as amended: *Provided further,* That the Corporation shall not impose requirements on governing bodies of the recipients that are additional to, or more restrictive than, the provisions of this Act and section 1007(c) of the Legal Services Corporation Act, as amended, including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of board members and (2) the size, quorum requirements and committee operations of such governing bodies: *Provided further,* That none of the funds appropriated under this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion: *Provided further,* That the Corporation shall utilize the same formula for distribution of fiscal year 1989 migrant funds as was used in fiscal year 1988: *Provided further,* That the fourteenth and fifteenth provisos of this section (relating to Parts 1607 and 1612 of the Corporation's regulations) shall expire upon action by the United States Senate confirming a Board of Directors of the Legal Services Corporation composed of individuals who are nominated by the President after January 20, 1989: *Provided further,* That a Board of Directors of the Legal Services Corporation, composed of individuals nominated by the President after January 20, 1989 and subsequently confirmed by the United States Senate, shall develop and implement a system for the competitive award of all grants and contracts, including support centers, to take effect after September 30, 1989.

SEC. 606. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general

savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 607. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 608. By January 31, 1989, the Federal Communications Commission shall promulgate regulations in accordance with section 1464, title 18, United States Code, to enforce the provisions of such section on a 24 hour per day basis.

SEC. 609. No funds appropriated under this Act may be expended by the United States Civil Rights Commission, directly or indirectly, for the purpose of enforcing subpoenas issued in conjunction with any investigations by the Commission into implementation by Indian tribal governments of title II of the Civil Rights Act of 1968, also known as the Indian Civil Rights Act (Act of April 11, 1968; 82 Stat. 77; 25 U.S.C. 1301, et seq.), until sixty days following the receipt by this Committee and the Select Committee on Indian Affairs of an opinion by the Comptroller General of the United States regarding the scope of authority and jurisdiction of the United States Civil Rights Commission over Indian tribal government officials pursuant to the Indian Civil Rights Act.

SEC. 610. Public Law 98-101 is amended by inserting at the end of section 5 the following subsections—

"(m) Amounts received under subsection (h) and subsection (j) of this section shall be available to the Commission for official reception and representation expenses.

"(n) An income account shall be available to the Commission without fiscal year limitation for printing, without regard to section 501 of title 44, and for distribution of Commission publications. The capital for the account shall consist of receipts from sales of Commission publications bearing the Bicentennial logo, including receipts received prior to the date of enactment of this subsection. Any unobligated and unexpended balance in the account which the Commission determines to be in excess of amounts needed for printing and distribution of publications, and any unobligated balance remaining in the account on December 31, 1991, shall be deposited in the Treasury of the United States.".

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989".

Approved October 1, 1988.

LEGISLATIVE HISTORY—H.R. 4782

HOUSE REPORTS: No. 100-688 (Comm. on Appropriations) and No. 100-979 (Comm. of Conference).

SENATE REPORT No. 100-388 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 10, reported in the House.

June 15, considered and passed House.

June 20, reported in the Senate.

July 26 and 27, considered and passed Senate, amended.

Sept. 25, conference report filed in the House.

Sept. 27, House agreed to conference report; receded and concurred in certain Senate amendments and in others with amendments. Senate agreed to conference report; agreed to House amendments.

Grand total:	
New budget (obligational) authority	$14,849,392,000
Appropriations, definite	(14,848,650,000)
Reappropriations, indefinite	(742,000)
By transfer	*(140,769,000)*
Limitation on borrowing authority	*(20,000,000)*
Limitation on administrative expenses	*(7,051,000)*
Limitation on loan guarantees	*(150,000,000)*
Liquidation of contract authority	*(248,900,000)*
Foreign currency appropriation	*(1,700,000)*
Availability of funds	*(3,000,000)*

Total, new budget (obligational) authority, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 ..... $14,849,392,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1989 contained in the foregoing annual appropriations act, the following additional amounts are available for the Departments of Commerce, Justice, and State, and the Judiciary for the fiscal year:

Permanent appropriations:	
Federal funds (pp. 2224, 2230–2231)	$474,353,000
Trust funds (pp. 2239, 2241, 2246)	853,577,000
Appropriations in legislative acts:	
Assets Forfeiture Fund, Federal funds (P.L. 100–690) (p. 2352)	50,000,000
Judicial Officers Retirement Fund, trust funds (P.L. 100–659) (p. 2354)	57,000,000
Judicial Survivors' Annuities Fund, trust funds (P.L. 100–659) (p. 2354)	1,000,000
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989:	
Anti-terrorism assistance (p. 170)	9,840,000
International narcotics control (pp. 168–169)	101,000,000
Migration and refugee assistance (pp. 169–170)	361,950,000
United States Emergency Refugee and Migration Assistance Fund (p. 170)	50,000,000
Urgent Supplemental Appropriations Act of 1989 To Meet the Dire Emergency Created by the Crisis of Drug Abuse (P.L. 100–690):	
Department of Justice:	
Drug Enforcement Administration (p. 468)	30,000,000
Federal Bureau of Investigation (p. 468)	15,000,000
Federal Prison System (p. 468)	95,600,000
Immigration and Naturalization Service (p. 468)	26,200,000
Legal activities (pp. 467–468)	103,600,000
Office of Justice Programs (pp. 468–469)	90,000,000
The Judiciary: Courts of Appeals, District Courts, and Other Judicial Services (p. 469)	51,000,000
Department of State: Administration of Foreign Affairs (p. 469)	5,000,000

Subtotal, additions 2,375,120,000

Deduct amounts for independent agencies transferred to the Department of Transportation and General Government totals:

Department of Transportation:	
Maritime Administration (pp. 42–43)	$177,001,000
General Government:	
Arms Control and Disarmament Agency (p. 43)	31,030,000
Board for International Broadcasting (p. 43)	227,900,000
Christopher Columbus Quincentenary Jubilee Commission (pp. 43–44)	212,000
Commission on Agricultural Workers (p. 44)	500,000
Commission on the Bicentennial of tne United States Constitution (p. 44)	6,936,000
Commission on Civil Rights (p. 44)	5,707,000
Commission on Security and Cooperation in Europe (p. 44)	741,000
Commission for the Study of International Migration and Cooperative Economic Development (p. 45)	1,290,000
Equal Employment Opportunity Commission (p. 45)	180,712,000
Federal Communications Commission (pp. 45–46)	100,355,000
Federal Maritime Commission (p. 46)	13,585,000

Federal Trade Commission (p. 46)	$66,243,000	
International Trade Commission (p. 46)	35,958,000	
Japan-United States Friendship Commission (pp. 46–47)	1,415,000	
Legal Services Corporation (p. 47)	308,555,000	
Marine Mammal Commission (p. 47)	953,000	
Office of the United States Trade Representative (p. 47)	15,229,000	
Securities and Exchange Commission (p. 47)	142,640,000	
Small Business Administration (pp. 47–49)	419,143,000	
State Justice Institute (p. 49)	10,980,000	
United States Information Agency (pp. 49–51)	882,362,000	
United States Sentencing Commission (p. 41)	5,183,000	
Subtotal, deductions		−$2,634,630,000
Grand total, Departments of Commerce, Justice, and State, and the Judiciary		14,589,882,000

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

Public Law 100-463

100th Congress, H.R. 4781

October 1, 1988

AN ACT

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $24,484,745,000. $24,484,745,000

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $18,962,456,000. 18,962,456,000

ENROLLMENT ERRATA

Pursuant to the provisions of H.J. Res. 665, authorizing the hand enrollment of appropriations bills for fiscal year 1989, and authorizing the subsequent, post-enactment of preparation of printed enrollment of those bills, any changes made in this printed version will be footnoted.

NOTE.—Footnotes in italics have been added by the editor of this document and are not related to enrollment errata mentioned above.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $5,716,200,000. $5,716,200,000

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $20,066,403,000: *Provided*, That in addition to the funds appropriated in this paragraph, $36,200,000 is appropriated for Aviation Continuation Pay. 20,066,403,000 36,200,000

[*Total, Military Personnel, Air Force, $20,102,603,000.*]

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,261,200,000. 2,261,200,000

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,621,400,000. 1,621,400,000

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section

678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $315,700,000. $315,700,000

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $657,964,000. 657,964,000

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,334,000,000. 3,334,000,000

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty, or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,033,686,000. 1,033,686,000

[*Total, title I, Military Personnel, new budget (obligational) authority, $78,489,954,000.*]

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $18,487,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $22,083,496,000: *Provided,* That of the funds appropriated in this paragraph, $900,000 22,083,496,000

shall be available only to support the 1989 World Ski Championships.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,014,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $24,852,100,000, of which $60,000,000 shall be transferred to the Coast Guard: *Provided,* That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards and air rework facilities. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards and air rework facilities. Competitions shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the Department of Defense Authorization Act, 1985, or Office of Management and Budget Circular A–76: *Provided further,* That funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels: *Provided further,* That of the amount appropriated, $40,000,000 shall be available after August 15, 1989, for repair of blister modification of the USS MIDWAY: *Provided further,* That blister modification of the USS MIDWAY may be accomplished at a shipyard in Japan only if such costs are assumed by the Government of Japan, or if the Government of Japan agrees to increase its share of U.S. labor costs or operational costs in the Japanese fiscal year by an amount equal to or greater than $40,000,000, and that such increase will be in addition to any increase already agreed to by the Governments of the United States and Japan at the time of enactment of this Act: *Provided further,* Notwithstanding section 2805 of title 10, of the funds appropriated herein, $3,500,000 shall be available for a grant to the Naval Undersea Museum Foundation for the completion of the Naval Undersea Museum at Keyport, Washington. These funds shall be available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project: *Provided further,* That of the funds appropriated herein, not to exceed $980,000 shall be available to pay Ukpeavic Inupiat Corporation for expenses related to the conveyance of the Navy Arctic Research Laboratory: *Provided further,* That, notwithstanding any other provision of law, the lease of the United States Navy repair ship HECTOR is hereby authorized in accordance with chapter 6 of the Arms Export Control Act and subject to the reporting requirements of section 62 of the Arms Export Control Act, as provided for in Executive Communication 4362, subject to a separate authorization bill being enacted or on or after October 18, 1988, whichever comes first. [1] $24,852,100,000

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,817,000,000. 1,817,000,000

[1] *The phrase ", of which $60,000,000 shall be transferred to the Coast Guard" in Operation and Maintenance, Navy, was inadvertently enrolled. The phrase was deleted in P.L. 101-45, Title III, Technical Enrollment Corrections, sec. 301.*

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,690,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $21,721,673,000 of which $1,500,000 shall be available only for repair and maintenance of Decker Field, Utah: *Provided*, That $26,000,000 shall be available only for the operation of the SR-71 Base in the Pacific area and, these funds shall be available for obligation and expenditure for this purpose: *Provided further*, That in fiscal year 1989, not less than $15,000,000 shall be available only for the cleanup of uncontrolled hazardous waste contamination at Hamilton Air Force Base, in Novato, in the State of California, sufficient to permit the unrestricted use of the property, subject to the resolution of procedural and technical issues to meet such standard which shall be established by the relevant State and Federal regulatory agencies in consultation with the Department of Defense, in accordance with the agreement between the Federal Government and the purchaser. $21,721,673,000

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $7,635,973,000, of which not to exceed $11,691,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided*, That $1,400,000 is available to the Office of Economic Adjustment for making community planning assistance grants pursuant to section 2391 of title 10, United States Code, and joint community/military planning assistance grants for mitigation of operational impacts from encroachment. 7,635,973,000

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $794,900,000. 794,900,000

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $979,200,000. 979,200,000

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $77,500,000. 77,500,000

Operation and Maintenance, Air Force Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,033,900,000. $1,033,900,000

Operation and Maintenance, Army National Guard

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,801,200,000. 1,801,200,000

Operation and Maintenance, Air National Guard

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $1,971,000,000. 1,971,000,000

National Board for the Promotion of Rifle Practice, Army

For the necessary expenses and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances in excess of the amounts provided under section 4313 of title 10, United States Code; not to exceed $4,300,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board. 4,300,000

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $3,500,000, and not to exceed $1,500 can be used for official representation purposes. $3,500,000

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $500,000,000, to remain available until transferred: *Provided,* That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation. 500,000,000

GOODWILL GAMES

For logistical support and personnel services including initial planning for security needs (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the Goodwill Games) provided by any component of the Department of Defense to the Goodwill Games; $5,000,000. 5,000,000

HUMANITARIAN ASSISTANCE

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $13,000,000, to remain available for obligation until September 30, 1990: *Provided,* That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives 21 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress. 13,000,000

[~~*Total, title II, Operation and Maintenance, new budget (obligational) authority, $85,293,742,000.*~~]

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; special-

ized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,883,700,000, to remain available for obligation until September 30, 1991. $2,883,700,000

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,602,800,000, to remain available for obligation until September 30, 1991: *Provided*, That funds may be obligated and expended for procurement and advance procurement of the Forward Area Air Defense System, Line-of-Sight Forward-Heavy system without regard to the restrictions contained in section 111(d) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180): *Provided further*, That notwithstanding sections 138 and 2366 of title 10, United States Code, the Secretary of the Army may obligate advance procurement funds provided for the Forward Area Air Defense System, Line-of-Sight Forward-Heavy system. 2,602,800,000

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,830,921,000, to remain available for obligation until September 30, 1991. 2,830,921,000

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the

foregoing purposes; $2,012,970,000, to remain available for obligation until September 30, 1991. $2,012,970,000

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 185 passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $4,568,011,000, to remain available for obligation until September 30, 1991. 4,568,011,000

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $9,415,311,000, to remain available for obligation until September 30, 1991: *Provided*, That the provisions in Public Laws 100-180 and 100-202 which provide that funds are available in specific dollar amounts only for specific programs, projects, or activities funded by the appropriation "Aircraft Procurement, Navy" shall have no force or effect which would limit the application of a proportionate share of the general reduction of $250,000,000 allocated within the appropriation account against these specific programs, projects or activities. 9,415,311,000

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ballistic Missile Programs, $1,872,538,000;
Other Missile Programs, $3,245,154,000;
Mark-48 ADCAP Torpedo, $485,000,000;
Mark-50 Torpedo, $198,547,000;
Vertical Launched ASROC, $105,000,000;
Modification of Torpedoes, $3,289,000;
Torpedo Support Programs, $48,652,000;
Other Weapons, $108,440,000;
Spares and Repair Parts, $87,412,000;

In all: $6,154,032,000, to remain available for obligation until September 30, 1991. 6,154,032,000

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,261,100,000;

SSN-688 attack submarine program, $1,365,100,000;

SSN-21 attack submarine program, $1,488,000,000;

Aircraft carrier service life extension program, $62,743,000;

DDG-51 destroyer program, $2,062,200,000;

LHD-1 amphibious assault ship program, $737,500,000;

MHC coastal mine hunter program, $197,200,000;

T-AO fleet oiler program, $689,900,000: *Provided,* That the Navy shall first execute the remaining options for the low bidder's current contract: *Provided further,* That the remaining funds may not be obligated or expended until the Secretary of the Navy conducts an independent assessment of the shipbuilding mobilization base and determines whether or not the remaining three T-AO fleet oilers should be awarded to a second source shipyard and submits for approval to the Committees on Appropriations its T-AO fleet oiler procurement strategy;

AO conversion program, $84,900,000;

T-AGOS surveillance ship program, $159,600,000;

AOE combat support ship program, $363,900,000;

LCAC landing craft air cushion program, $306,600,000;

For outfitting, and post delivery, $276,800,000;

In all: $9,055,543,000, to remain available for obligation until September 30, 1993: *Provided,* That additional obligations may be incurred after September 30, 1993, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further,* That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further,* That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards. $9,055,543,000

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 492 passenger motor vehicles of which 434 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $4,813,969,000, to remain available for obligation until September 30, 1991: *Provided,* 4,813,969,000

That funds appropriated for procurement of TSEC/KY-67 (Bancroft) radios shall be available only for procurement of SINCGARS radios.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed 150 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,297,265,000, to remain available for obligation until September 30, 1991. $1,297,265,000

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $15,922,499,000, to remain available for obligation until September 30, 1991: *Provided*, That none of the funds provided in this Act may be obligated on B-1B bomber contracts which would cause the Air Force's $20,500,000,000 cost estimate for the B-1B bomber baseline program expressed in fiscal year 1981 constant dollars to be exceeded. 15,922,499,000

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,219,683,000, to remain available for obligation until September 30, 1991. 7,219,683,000

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; for the purchase of not to exceed 517 passenger motor vehicles of which 403 shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in

such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $8,188,638,000, to remain available for obligation until September 30, 1991. $8,188,638,000

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; $1,138,900,000, to remain available for obligation until September 30, 1991. 1,138,900,000

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 79 passenger motor vehicles of which 72 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,186,100,000, to remain available for obligation until September 30, 1991. 1,186,100,000

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $33,500,000, of which $27,500,000 shall remain available for obligation until September 30, 1991, and of which $6,000,000 for a project to develop a reliable supply of titanium ore from ilemenite shall remain available until September 30, 1993. 33,500,000

[*Total, title III, Procurement, new budget (obligational) authority, $79,323,842,000.*]

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $5,130,166,000, to remain available for obligation until September 30, 1990: *Provided,* That $7,300,000 shall be available only for type classification and operational testing of the 120 millimeter mortar system and development of a family of enhanced 120 millimeter ammunition: *Provided further,* That $2,500,000 shall be available only for the vehicular intercommunications system: *Provided further,* That $5,000,000 shall be available only for development of fluidtronics technology for use in ground combat or support vehicles: *Provided further,* That $2,000,000 shall be made available until expended, as a grant, only for continued development of a medical research institute directed at basic and clinical research in immunology, for associated facilities, and for related purposes. 5,130,166,000

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,382,312,000, to remain available for obligation until September 30, 1990: *Provided,* That $1,000,000 shall be made available for personnel and other expenses for the Institute for Technology Development, as a grant, for the National Center for Physical Acoustics. $9,382,312,000

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $14,502,347,000, to remain available for obligation until September 30, 1990: *Provided,* That $2,000,000 shall be available only for development of high thermal stability and/or endothermic jet fuels, including studies on coal based fuels: *Provided further,* That of the funds appropriated in this paragraph, $890,000,000 shall be available for ICBM modernization programs as follows: 14,502,347,000

(1) $40,000,000 shall be available for continued development and flight testing of the MX missile;

(2) $250,000,000 shall be available for the Small ICBM program; and

(3) $600,000,000 shall be available for the MX Rail-Garrison program and of the $600,000,000 available for the MX Rail-Garrison program, the amount obligated before February 15, 1989, may not exceed $250,000,000: *Provided further,* That during the period beginning on January 21, 1989, and ending on February 15, 1989, the President shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report on—

(A) anticipated obligations for the remainder of fiscal year 1989 for the small ICBM program, the MX Rail-Garrison program, and other ICBM modernization programs; and

(B) the purposes those obligations are intended to accomplish.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $8,427,908,000, to remain available for obligation until September 30, 1990: *Provided,* That $95,000,000 shall be made available only for the Advanced Submarine Technology Program as described in section 241 of the National Defense Authorization Act for Fiscal Year 1989 (H.R. 4264), as provided in the conference agreement included in House Report 100-753: *Provided further,* That the Secretary of Defense shall award the funds made available in this Act for the University Research Initiative Program on the basis of competition; and, that none of the funds may be obligated or expended until the Appropriations and Armed Services Committees 8,427,908,000

of the House and Senate approve a plan submitted by the Secretary of Defense to provide for broader geographic distribution of funds under such program in comparison to the distribution of such funds during fiscal year 1986 and 1987; and sets aside a portion of the funds available for such program for fiscal year 1989 to implement such a plan: *Provided further,* That section 215(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) is repealed: *Provided further,* That of funds made available for the Experimental Evaluation of Major Innovative Technologies program, $34,000,000 is available only for the purposes of research, development, launch, and on-orbit functional demonstrations with military forces of LIGHTSAT systems and their required low-cost transportable space launch vehicles: *Provided further,* That of the funds made available for the ALS Program, not less than $96,500,000 shall be transferred to the National Aeronautics and Space Administration only for ALS propulsion activities: *Provided further,* That the funds appropriated by this Act for any activities associated directly or indirectly with the Advanced Launch System or any ALS variant shall be subject to the terms and conditions of section 5 of chapter II of title I of Public Law 100-71 (Supplemental Appropriations Act, 1987): *Provided further,* That of the total amount available for obligation, $16,500,000 shall be made available through the Office of the Under Secretary of Defense for Acquisition only for bioenvironmental hazards research activities at universities, for associated facilities, and for other related purposes: *Provided further,* That of the amounts available for obligation, an additional $100,000,000 shall be transferred to the National Aeronautics and Space Administration: *Provided further,* That of the total amount available for obligation for the Strategic Technology Program, $20,000,000 shall be made available only for the Defense Advanced Research Projects Agency Initiative in Concurrent Engineering: *Provided further,* That of the amounts available for obligation, in addition to the funds previously appropriated to the National Defense Stockpile Transaction Fund, notwithstanding the provisions of 50 U.S.C. 98h, there is hereby appropriated $3,500,000 from the Strategic Technology Program only to the Fund, to remain available until expended for the South Carolina Research Authority pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a strategic materials research facility: *Provided further,* That not later than February 1, 1989, the Secretary of Defense shall submit to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives a report setting forth (1) each program, project, or activity for which funds were not requested in the budget submitted to Congress pursuant to section 1105 of title 31, United States Code, for fiscal year 1989 and are made available under this Act for only one educational institution, or organization affiliated with an educational institution, which is identified, either directly or indirectly, by the terms of this Act (or the Joint Statement of Managers accompanying the conference report on H.R. 4781 of the One Hundredth Congress) as the institution or organization to perform the program, project, or activity for which such funds are provided, and (2) the name of the institution and the amount of funds made available for such program, project, or activity: *Provided further,* That the funds appropriated by this Act to carry out a program, project, or activity by any such educational institution or organization may not be obligated or expended for such purpose before February 1, 1989, and such funds may be obligated or expended on or after such date for such purpose only after a period of 90 days has expired after the date on which the committees named in the preceding proviso have received the report referred to in such proviso.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Under Secretary of Defense, Developmental Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $149,900,000, to remain available for obligation until September 30, 1990. $149,900,000

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $71,234,000, to remain available for obligation until September 30, 1990. 71,234,000

[*Total, title IV, Research, Development, Test, and Evaluation, new budget (obligational) authority, $37,663,867,000.*]

TITLE V

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $291,900,000, of which $20,000,000 is available only for paying administrative expenses associated with directing and performing studies, surveys, engineering analyses, requests for proposals, contracting and associated contract administration functions that have as their sole objective the increased use of coal by the United States Department of Defense facilities in the United States. 291,900,000

NAVY STOCK FUND

For the Navy stock fund; $184,700,000. 184,700,000

AIR FORCE STOCK FUND

For the Air Force stock fund; $186,900,000. 186,900,000

DEFENSE STOCK FUND

For the Defense stock fund; $25,000,000. 25,000,000

[*Total, title V, Revolving and Management Funds, new budget (obligational) authority, $688,500,000.*]

TITLE VI

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986; $179,500,000, of which $117,300,000 shall remain available for obligation until September 30, 1989, $17,900,000 shall remain available for obligation until September 30, 1990, $44,300,000 shall remain available for obligation until September 30, 1991. 117,300,000 17,900,000 44,300,000

[*Total, title VI, Chemical Agents and Munitions Destruction, Defense, new budget (obligational) authority, $179,500,000.*]

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $144,500,000. $144,500,000

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $23,645,000. 23,645,000

DRUG INTERDICTION, DEFENSE

(INCLUDING TRANSFER OF FUNDS) [1]

For the Department of Defense, $210,000,000 and by transfer from Aircraft Procurement, Navy, 1987/89, $90,000,000 for transfer to "Military Personnel" and "Operation and Maintenance" appropriations for operating costs of the Department of Defense related to the detection and monitoring of aerial and maritime transit of illegal drugs into the United States. Not less than $40,000,000 of such amount shall be available only for drug interdiction activities of the Army National Guard and the Air National Guard. Funds appropriated by this paragraph in excess of $30,000,000 may not be obligated or expended until— 210,000,000 *90,000,000 (by transfer)*

(1) the Secretary submits to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on how the funds are proposed to be used; and

(2) a period of 30 days has elapsed after the date on which the report is received by such committees.

Such report shall be submitted not later than 60 days after the date of the enactment of this Act and should set forth in detail the plans of the Secretary for the obligation of such funds, including a statement of the following:

(A) The appropriation account or accounts to which the funds are proposed to be transferred.

(B) The activities proposed to be undertaken using those funds.

(C) The relationship between those activities and the drug interdiction strategy of the United States.

Funds appropriated by this paragraph shall be available for obligation for the same period, and for the same purpose, as the appropriation to which transferred. The transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act. The restrictions contained in the third sentence of this paragraph shall not apply to the obligation of any amount not in excess of $30,000,000 which is obligated for drug interdiction activities.

SPECIAL OPERATIONS FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for equipping and operating Special Operations Forces; $286,000,000, of which $108,000,000 shall be transferred to and merged with Other Procure- 286,000,000

[1] *Drug Interdiction, Defense was amended (The Anti-Drug Abuse Act of 1988, P.L. 100-690, Sec. 7607) as follows: by inserting at the end of the first sentence after the word "United States" the following: "and drug enforcement and interdiction activities of the Army National Guard and Air National Guard", and by inserting in the second sentence "enforcement and" after the word "drug".*

ment, Army; $35,000,000 shall be transferred to and merged with Operation and Maintenance, Navy; $100,000,000 shall be transferred to and merged with Shipbuilding and Conversion, Navy; $25,000,000 shall be transferred to and merged with Other Procurement, Navy; and $18,000,000 shall be transferred to and merged with Operation and Maintenance, Army.

[*Total, title VII, Related Agencies:*
[*New budget (obligational) authority* ..... *$664,145,000.*]
[*By transfer* ..... *90,000,000.*]

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided*, That such contracts may be renewed annually.

SEC. 8003. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 8004. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 8005. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8006. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to

combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 8007. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of eighteen thousand pounds.

SEC. 8008. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

SEC. 8009. During the current fiscal year, the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided*, That except as provided in 10 U.S.C. 2690, the foregoing authority shall not be available for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe: *Provided further*, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

SEC. 8010. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $25,000, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall

preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO and the State of Israel so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 8011. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 8012. No appropriation contained in this Act may be used to pay for the cost of legislative liaison activities of the Department of Defense in excess of $15,000,000: *Provided*, That costs for military retired pay accrual shall be included within this limitation.

SEC. 8013. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided*, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

(TRANSFER OF FUNDS)

SEC. 8014. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $3,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

$3,000,000,000 (transfer authority)

(TRANSFER OF FUNDS)

SEC. 8015. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disburse-

ments to be made from such funds: *Provided*, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8016. Except as provided in 10 U.S.C. 2690, none of the funds available to the Department of Defense in this Act shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe.

SEC. 8017. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 days in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 8018. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 8019. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions for section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the lower of: (a) the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code; or (b) the allowable amounts in effect during fiscal year 1988 increased to the extent justified by economic changes as reflected in appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act.

SEC. 8020. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $51,600,000: *Provided*, That costs for military retired pay accrual shall be included within this limitation.

SEC. 8021. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: *Provided*, That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. 8022. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided*, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers'

Training Corps unit in each State and at each State-operated maritime academy: *Provided further,* That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: *Provided further,* That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 8023. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1990.

SEC. 8024. None of the funds appropriated by this Act may be used to support more than 6,113 full-time and 1,570 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 8025. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 8026. During the current fiscal year, the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code.

SEC. 8027. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8028. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: *Provided,* That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 8029. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

SEC. 8030. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

SEC. 8031. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided,* That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further,* That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further,* That no multiyear procurement contract can be terminated without 10-day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further,* That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

H-60 series helicopter engines;
CH-47 helicopter modifications;
Multiple Launch Rocket System;
AV-8B aircraft;
UHF follow-on satellite system;
Defense Meteorological Satellite;
F-16 aircraft;
AH-64 helicopters;
M-1 tank chassis;
TOW 2 Missile: *Provided,* That any requirement that a multiyear contract may not be entered into unless the anticipated cost over the period of the contract is not more than 88 percent of the average cost incurred for the same system procured under an annual contract shall not apply to multiyear contracts for TOW 2.

SEC. 8032. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence.

SEC. 8033. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

(1)

[1] *Sec. 8031 was amended by Sec. 104 of Public Law 100-526.*

SEC. 8034. None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(TRANSFER OF FUNDS)

SEC. 8035. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 8036. None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 8037. None of the funds appropriated by this Act may be used to appoint or compensate more than 39 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312–5316 of title 5, United States Code).

SEC. 8038. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 70,325: *Provided,* That none of the funds appropriated by this Act shall be available to support more than 47,292 positions in support of the Army Reserve, Army National Guard or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further,* That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.

SEC. 8039. (a) The provisions of section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1989 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1989, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1990 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1990 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1990.

SEC. 8040. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: *Provided,* That nothing in this

section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: *Provided further,* That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

SEC. 8041. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8042. No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process: *Provided,* That any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

SEC. 8043. None of the funds made available by this Act shall be available to operate in excess of 245 commissaries in the contiguous United States.

SEC. 8044. None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

SEC. 8045. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8046. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided,* That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 8047. None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

SEC. 8048. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or

petroleum products except in vessels of or belonging to the United States.

SEC. 8049. Of the funds made available to the Department of the Air Force in this Act, not less than $11,749,000 shall be available for the Civil Air Patrol.

SEC. 8050. Funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense installations for removal of feral burros and horses.

SEC. 8051. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 403(a) of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 403(b) of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239.

SEC. 8052. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 8053. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

SEC. 8054. None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

SEC. 8055. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: *Provided*, That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

SEC. 8056. Funds available for operation and maintenance under this Act, may be used in connection with demonstration projects and other activities authorized by section 1092 of title 10, United States Code.

SEC. 8057. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

SEC. 8058. Notwithstanding any other provision of law, during fiscal year 1989, the Department of Defense shall conduct an expanded pilot project of providing home health care as part of an individualized case-managed range of benefits that may reasonably deviate from otherwise payable types, amounts and levels of care, in up to four geographic areas containing no more than one-fourth of the Department's beneficiaries, for dependents entitled to health care under sections 1079 and 1086 of title 10, United States Code, with the patients selected from those with exceptionally serious, long-range, costly and incapacitating physical or mental conditions defined by the Secretary of Defense as likely to benefit from the range of demonstration benefits: *Provided,* That although the cost may be greater in a specific case, the net benefit cost to the Department of Defense shall not exceed that which could reasonably have been expected to occur in the absence of the demonstration: *Provided further,* That outside of the areas selected, the home health care pilot project as directed and implemented in fiscal years 1986 and 1987 shall be continued.

SEC. 8059. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 8060. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8061. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate.

(TRANSFER OF FUNDS)

SEC. 8062. Upon a determination by the Secretary of Defense that such action will result in a more economical acquisition of automatic data processing equipment, funds provided in this Act under one appropriation account for the lease or purchase of such equipment may be transferred through the Automatic Data Processing Equipment Management Fund to another appropriation account in this Act for the lease or purchase of automatic data processing equipment to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided,* That within thirty days after the end of each quarter the Secretary of Defense shall report transfers made under this section to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further,* That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 8063. Appropriations available to the Department of Defense during the current fiscal year shall be available, under such regulations as the Secretary of Defense may deem appropriate, to exchange or furnish mapping, charting, and geodetic data, supplies or services to a foreign country pursuant to an agreement for the production or exchange of mapping, charting, and geodetic data.

SEC. 8064. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided,* That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 8065. Appropriations made available to the Department of Defense by this Act may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: *Provided,* That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

SEC. 8066. None of the funds appropriated in this Act may be obligated or expended to carry out a program to paint any naval vessel with paint known as organotin or with any other paint containing the chemical compound tributyltin until such time as the Environmental Protection Agency certifies to the Department of Defense that whatever toxicity as generated by organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment: *Provided,* That the Navy may use these funds to paint aluminum-hulled craft as necessary, and, in addition, the Navy may paint no more than fifteen steel-hulled ships to conduct research as described in the "Navy Organotin Program Plan for Two Case Study Harbors".

SEC. 8067. Notwithstanding any other provision of law, funds available in this Act shall be available to the Department of Defense to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

SEC. 8068. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications-electronics depot maintenance at an amount above the strengths assigned to those depots on September 30, 1985: *Provided,* That the foregoing limitation shall not apply to civilian personnel who perform caretaker-type functions at these installations: *Provided further,* That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.

SEC. 8069. (a) None of the funds made available by this Act to the Department of Defense may be used to procure the Federal Supply Classes of machine tools set forth in subsection (b) of this section, for use in any government-owned facility or property under control of the Department of Defense, which machine tools were not manufactured in the United States or Canada.

(b) The procurement restrictions contained in subsection (a) shall apply to Federal Supply Classes of metalworking machinery in categories numbered 3405, 3408, 3410-3419, 3426, 3433, 3438, 3441-3443, 3445, 3446, 3448, 3449, 3460, and 3461.

(c) When adequate domestic supplies of the classifications of machine tools identified in subsection (b) are not available to meet Department of Defense requirements on a timely basis, the procurement restrictions contained in subsection (a) may be waived on a case-by-case basis by the Secretary of the Service responsible for the procurement.

(d) Subsection (a) shall not apply to contracts which are binding as of the date of enactment of this Act.

SEC. 8070. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated

information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided*, That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,100,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 8071. None of the funds appropriated in this Act may be obligated or expended for the procurement, modification, product-improvement, or production qualification or prove-out of the five inch semi-active laser guided projectile (Deadeye).

SEC. 8072. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during fiscal year 1989, limiting the amount which may be expended for personnel services, and including pay and allowances of military personnel and civilian employees, or for purposes involving personal services are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

SEC. 8073. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 8074. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 8075. (a) The Secretary of Defense shall conduct through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) a demonstration project on the treatment of alcoholism designed to compare the use of chemical aversion therapy with the use of other treatments. At the conclusion of the demonstration project, the Secretary shall submit to the Committees on Appropriations and Armed Services of the Senate and House of Representatives a report on the results of the project: *Provided*, That the demonstration project shall be conducted at only one location: *Provided further*, That coverage for chemical aversion therapy under this demonstration project is extended to those beneficiaries referred for such treatment by a physician, psychiatrist or psychologist recognized as an authorized provider under CHAMPUS.

(b) Until the report required by subsection (a) is submitted, the Secretary of Defense shall ensure that coverage of beneficiaries under section 1079(a) or 1086(a) of title 10, United States Code, shall continue under the provisions of subsection (a).

SEC. 8076. None of the funds appropriated by this Act shall be available for the operation and maintenance of contractor-owned, contractor-operated primary health care facilities unless the Department of Defense Inspector General agrees to conduct an inspection, audit and evaluation of these clinics.

SEC. 8077. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. 8078. (a) None of the funds in this Act may be used to execute a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth.

(b) Notwithsanding section 725 of Public Law 100-180, the preemption provisions of title 10, United States Code, chapter 55, section 1103, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to any and all contracts entered into pursuant to Solicitation Number MDA-903-87-R-0047 and shall preempt any and all State and local laws or regulations which relate to health insurance or to prepaid health care plans: *Provided further*, That any and all funds derived from contracts or subcontracts issued pursuant to this solicitation shall not be subject to any Hawaii State or local sales, general excise, or similar taxes imposed upon gross sales, gross income, or gross receipts, except to the extent that such taxes are uniformly imposed upon physicians, hospitals, and all similar direct providers of health care services.

SEC. 8079. None of the funds appropriated by this Act may be used by the Defense Logistics Agency to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided*, That savings that result from this provision are represented as such in future budget proposals.

SEC. 8080. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of the enactment of this Act, enlists in the armed services for less than three years; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member: *Provided*, That these limitations shall not apply to members in combat arms skills.

SEC. 8081. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Administrator of Veterans Affairs from the Department of Defense Education Benefits Fund when the time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this provision shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this provision applies to active components of the Army.

SEC. 8082. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability and the planned upgrade of this capability: *Provided*, That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers: *Provided further*, That of the funds appropriated for "Other Procurement, Army" for fiscal year 1988, those funds provided for a supercomputer may only be obligated to purchase a system to be installed at a competitively selected independent academic institution: *Provided further*, That of the funds appropriated for "Other Procurement, Army" in fiscal year 1989, $27,400,000 shall be obligated to purchase a supercomputer system to be installed at the United States Army Engineer Waterways Experiment Station.

SEC. 8083. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by

the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1989, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P–1 and R–1 budget justification documents as subsequently modified by Congressional action: *Provided, however,* That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

SEC. 8084. (a) Of the funds appropriated to the Army, $109,895,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided*, That none of these funds can be expended:

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) unless the RCAS contract source selection official is the Chief of the National Guard Bureau;

(4) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(5) unless the Program Manager (PM) charter makes the PM accountable to the source selection official and fully defines his authority, responsibility, reporting channels and organizational structure;

(6) to pay the salaries of individuals assigned to the RCAS program management office, source selection evaluation board, and source selection advisory board unless such organizations are comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(7) to award a contract for development or acquisition of RCAS unless such contract is competitively awarded under procedures of OMB Circular A–109 for an integrated system consisting of software, hardware, and communications equipment and unless such contract precludes the use of Government furnished equipment, operating systems, and executive and applications software; and

(8) unless RCAS performs its own classified information processing.

(b) None of the funds appropriated or made available in this Act are available for procurement of Tactical Army Combat Service Support Computer Systems (TACCS) unless at least 50 percent of the TACCS computers procured with Army fiscal year 1989 funds are provided to the Reserve Component.

(c) None of the funds appropriated in this Act are available for procurement of mini- and micro-computers for the Army Reserve Component which duplicate functions to be included in the RCAS contract.

SEC. 8085. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been [1]

[1] *Sec. 8085 was amended (Sec. 105, P.L. 100-526) as follows:*
(1) striking out "fixed price-type contracts" and inserting in lieu thereof "firm fixed-price contracts"; and striking out ": Provided further," and all that follows through the end of the section and inserting in lieu thereof a period.

reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: *Provided,* That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: *Provided further,* That at least thirty days before making a determination under this section the Secretary of Defense will notify the Committees on Appropriations of the Senate and House of Representatives in writing of his intention to authorize such a fixed price-type developmental contract and shall include in the notice an explanation of the reasons for the determination.

SEC. 8086. Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

SEC. 8087. Not to exceed $35,000,000 of the funds available to the Department of the Army during the current fiscal year may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

SEC. 8088. From the amounts appropriated in this Act, funds shall be available for Naval Aviation Depots to perform manufacturing in order to compete for production contracts of Defense articles: *Provided,* That the Navy shall certify that successful bids between Naval Aviation Depots and private companies for such production contracts include comparable estimates of all direct and indirect costs: *Provided further,* That competitions conducted under this authority shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the Department of Defense Authorization Act, 1985, or Office of Management and Budget Circular A-76.

SEC. 8089. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under manufactured outside the United States.

SEC. 8090. (a) None of the funds available to the Department of Defense shall be used to enter into any agreement or contract to convert a heating facility at military installations in Europe to district heat, direct natural gas, or other sources of fuel until ninety days after a study by the United States Departments of Defense, State, and Commerce on the economic benefits of using United States coal at defense installations in Europe is completed and forwarded to Members of Congress: *Provided,* That this study should determine the extent of, and justification for, the economic benefits accruing to the Soviet Union from all prior and anticipated conversions of United States military installations in Europe to district heat and direct natural gas systems which utilize Soviet-supplied natural gas: *Provided further,* That this study should also address the issues raised by the economic analysis prepared by the Ambassador at Large on burdensharing negotiations to be appointed by the President as delineated by subsection (c) of section 8125 of this Act: *Provided further,* That the study also include a review of the modernization plan for the needed updating of the heating systems in the Kaiserslautern military community and the usage of United States produced coal: *Provided further,* That this study should be completed no later than July 1, 1989.

(b) Notwithstanding subsection (a), funds available to the Department of Defense may be used to enter into an agreement or contract to convert a heating facility at military installations in Europe to district heat, direct natural gas, or other sources of fuel if the Secretary of Defense certifies in writing and provides a copy to the

Committees on Appropriations of the House and Senate that such conversion is in the best interest of the Nation.

SEC. 8091. During the current fiscal year, notwithstanding any other provision of law, the Department of Defense shall exclude from diagnosis related groups regulations: (a) inpatient hospital services in a hospital whose patients are predominantly under 18 years of age and (b) such services in any hospital with respect to (1) discharges involving newborns and infants who are less than 29 days old upon admission (other than discharges classified to diagnosis related group 391), (2) discharges involving pediatric bone marrow transplants, (3) discharges involving children who have been determined to be HIV seropositive, and (4) discharges involving pediatric cystic fibrosis. The Department of Defense may include the hospital and neonatal services identified in subsections (a) and (b) in diagnosis related group regulations during fiscal year 1989 when the Department of Defense has adopted special measures to assure equitable and adequate payment for such services, such special measures including: (1) a "children's hospital differential" adjustment for each discharge of a CHAMPUS patient from a children's hospital that will assure that had the regulations been in effect for fiscal year 1988 they would have resulted in estimated aggregate CHAMPUS payments to children's hospitals not less than estimated aggregate CHAMPUS payments to such hospitals for discharges occurring during that fiscal year under the regulations in effect during fiscal year 1988 (recognizing that payments in subsequent years will vary based on volume, case mix intensity, and other factors); for a transitional period of three years the children's hospital differential will be computed on a hospital specific basis for children's hospitals with 50 or more CHAMPUS discharges in fiscal year 1988 and will be computed in aggregate for children's hospitals with less than 50 discharges in a year; (2) a children's hospital differential hold harmless provision, providing for retrospective and prospective corrections; (3) a special outlier policy for children's hospitals and neonatal services that combines the thresholds in effect under CHAMPUS DRG regulations for fiscal year 1988 with the higher marginal cost factors proposed by 53 Fed. Reg. 20580 (June 3, 1988); (4) a refinement to the DRGs for neonatal services to account for birthweight, surgery, and the presence of multiple, major, and other neonatal problems; (5) incorporation of annual updates to the classification features included in the regulation for neonatal services; (6) a provision for making interim payments for cases that are especially lengthy or expensive; and (7) a commitment to examine possible further uses of Pediatric Modified DRGs in the future: *Provided,* That the Department of Defense shall ensure that beneficiaries not be required to pay more in cost-shares under the foregoing exclusions than those which would have been imposed if the diagnosis related group system had been instituted: *Provided further,* That notwithstanding any other provision of law, appropriations available to the Department of Defense may be used to pay the difference between the cost-shares paid by beneficiaries under the foregoing and the billed charges for services covered by this provision.

PROHIBITION ON PURCHASE OF TOSHIBA PRODUCTS FOR RESALE IN MILITARY EXCHANGE STORES

SEC. 8092. (a) PROHIBITION.—During the three-year period beginning on the date of the enactment of this Act, no product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation (or any of its affiliates or subsidiaries) may be purchased by the Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, recreation, or resale activity operated by the Department of Defense (either directly or by concessionaire).

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply to microwave ovens manufactured or assembled in the United States.

SEC. 8093. Notwithstanding any other provision of law, the Secretary of the Air Force shall, from existing prior year funds, make available $18,000,000 for the next generation trainer (F-109) engine over the next three-year period: *Provided*, That none of the funds may be obligated or expended until the Secretary of the Air Force submits a certification to the Committees on Appropriations which identifies a specific United States military requirement for the F-109 engine or which demonstrates that these funds can be fully recouped under a contractual arrangement with the manufacturer through commercial sales of the engine.

(TRANSFER OF FUNDS)

SEC. 8094. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations of the reserve components for the purpose of providing military technician pay the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) as that granted the other military personnel accounts: *Provided*, That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations of the reserve components do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119): *Provided further*, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further*, That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty legislative days before any such transfer of funds under this provision and if no objection is expressed within that twenty legislative day period.

SEC. 8095. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8096. No naval vessel or any vessel owned and operated by the Department of Defense homeported in the United States may be overhauled, repaired, or maintained in a foreign owned and operated shipyard located outside of the United States, except for voyage repairs.

SEC. 8097. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States Government may be obligated or expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 104 of the Intelligence Authorization Act for fiscal year 1989.

SEC. 8098. During the current fiscal year and hereafter, appropriations available to the Department of Defense for operation and maintenance shall be available for payment of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by

the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof.

SEC. 8099. None of the funds provided in this Act may be obligated or expended for the procurement of LANDSAT or SPOT remote sensing data except by the Defense Mapping Agency, in its role as primary action office for such purchases by Department of Defense agencies and military departments.

SEC. 8100. None of the funds appropriated or made available by this Act may be obligated for any procurement or product improvement of the M30 (4.2 inch) heavy mortar, or for development or product improvement of 4.2 inch mortar ammunition.

SEC. 8101. The designs of the Army LHX helicopter, the Navy Advanced Tactical Aircraft, the Air Force Advanced Tactical Fighter, and any variants of these aircraft, must incorporate Joint Integrated Avionics Working Group standard avionics specifications no later than 1998.

SEC. 8102. Of the funds appropriated in fiscal year 1988 to the Navy for Project 7000, $7,000,000 shall be provided to the Air Force for Project Have Gaze.

SEC. 8103. (a) None of the funds appropriated or made available by this Act shall be expended to award a contract pursuant to a solicitation issued on or after the date of the enactment of this Act under the Department of Defense overseas fuel procurement programs, including procurements in American Samoa and Guam, to a contractor other than a United States firm: *Provided*, That the foregoing limitation shall not apply unless the United States firm—

(1) has a crude oil refining capacity of not more than 85,000 barrels a day;

(2) participates in the Department of Defense overseas fuel procurement program;

(3) agrees to the contract on the terms proposed by the foreign firm to which the contract would otherwise be awarded; and

(4) does not use processing agreements in order to fulfill the contract, although exchange agreements are specifically permitted.

(b) This provision shall not apply if the total cost of supplies offered by the United States firm, including transportation as specified in the solicitation, would exceed the total evaluated cost to the Government if the contract were awarded to the foreign firm.

(c) This provision shall not supersede any status of forces agreement and shall not apply to acquisitions subject to the Agreement on Government Procurement of 1979 and the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582) and including acquisitions from countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.).

(d) For the purpose of this section, the term "United States firm" means a corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

SEC. 8104. Not later than December 31, 1988, the Secretary of Defense shall submit to Congress a report on the causes and circumstances of all deaths of Navy personnel during Navy training since January 1, 1986, and on the actions taken by the Secretary of Defense and the Secretary of the Navy to prevent further such deaths.

ALLOWABILITY OF COSTS TO PROMOTE THE EXPORT OF DEFENSE PRODUCTS

SEC. 8105. (a) IN GENERAL.—Section 2324(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The regulations shall provide that costs to promote the export of products of the United States defense industry, including costs of exhibiting or demonstrating products, shall be allowable to the extent that such costs—

"(A) are allocable, reasonable, and not otherwise unallowable;

"(B) with respect to the activities of the business segment to which such costs are being allocated, are determined by the Secretary of Defense to be likely to result in future cost advantages to the United States; and

"(C) with respect to a business segment which allocates to Department of Defense contracts $2,500,000 or more of such costs in any fiscal year of such business segment, are not in excess of the amount equal to 110 percent of such costs incurred by such business segment in the previous fiscal year.".

(b) REGULATIONS.—The Secretary of Defense shall prescribe final regulations under paragraph (5) of section 2324(f) of title 10, United States Code (as added by subsection (a)), not later than 90 days after the date of the enactment of this Act. Such regulations shall apply with respect to costs referred to in such paragraph that are incurred by a Department of Defense contractor (or a subcontractor of such a contractor) on or after the first day of the contractor's (or subcontractor's) first fiscal year that begins on or after the date on which such final regulations are prescribed.

(c) REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States and the Inspector General of the Department of Defense shall each submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report that includes the following:

(1) An assessment of whether the regulations required by section 2324(f)(5) of title 10, United States Code (as added by subsection (a)), provide the appropriate incentives to stimulate exports by the United States defense industry and provide cost savings to the United States.

(2) An assessment of whether such regulations provide appropriate criteria to ensure that costs allowed are reasonably likely to provide future cost savings to the United States.

(d) TERMINATION.—Section 2324(f)(5) of title 10, United States Code (as added by subsection (a)), shall cease to be effective three years after the date of the enactment of this Act.

SEC. 8106. (a) Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

(b) Sums appropriated in title I of this Act, Military Personnel, are reduced by $150,000,000 which will be realized by absorbing a portion of the pay raise requirements. —$150,000,000

SEC. 8107. Notwithstanding any other provision of law, the Secretary of Defense shall require that a provider of services under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) also provide services to members of the armed forces pursuant to section 1074(c), title 10, in accordance with the same reimbursement rules, subject to modifications deemed appropriate by the Secretary of Defense, as apply under CHAMPUS.

SEC. 8108. Of the funds made available in this Act for military personnel appropriations, $2,000,000 shall be available for the payment of bonuses to officers of the Army Nurse Corps, the Navy Nurse Corps and officers designated as Air Force nurses. A bonus, in an amount not to exceed $3,000, may be paid, under such regulations and conditions as the Secretary of Defense deems appropriate, to such an officer: *Provided*, That the officer is on active duty under a call or order to active duty for a period of not less than one year: *Provided further*, That the officer is qualified and performing as an anesthetist: *And provided further*, That this provision shall not be effective unless specifically authorized.

SEC. 8109. None of the funds available to the Department of Defense shall be obligated or expended during fiscal year 1989 for the purpose of converting the Naval Avionics Center, Indianapolis, the Naval Civil Engineering Laboratory, Port Hueneme, and the Naval Air Engineering Center, Lakehurst, from operation under the Navy Industrial Fund as authorized by 10 U.S.C. 2208 to operation as a direct appropriation financed authority.

(TRANSFER OF FUNDS)

SEC. 8110. Notwithstanding any other provision of law, during fiscal year 1989, the Secretary of Defense shall make available to the United States Coast Guard without reimbursement not less than $140,000,000 in supplies, fuel, training assistance, medical support, and other operational support, exclusive of administrative costs; and from funds made available in this Act, $60,000,000 shall be transferred to Coast Guard "Operating Expenses". *$60,000,000 (transfer)* [1]

SEC. 8111. Of the funds appropriated by this Act, not more than $1,163,200,000 may be obligated for morale, welfare, and recreation activities: *Provided*, That nonappropriated funds may be used to reimburse appropriated funds for expenses of civilian employees employed on January 1, 1987, by revenue-generating recreation activities and such reimbursed expenses shall not be included in the dollar limitation of this section.

SEC. 8112. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the fifty United States and the District of Columbia, 182,011 civilian workyears: *Provided*, That workyears shall be applied as defined in the Federal Personnel Manual Supplement 298-2, Book IV: *Provided further*, That workyears expended in dependent student hiring programs or hiring programs for disadvantaged youth shall not be included in this workyear limitation.

SEC. 8113. (a) No later than December 1, 1988, the Secretary of Defense shall submit to the Committees on Appropriations of the House and Senate, his evaluation of the Deputy Inspector General, Department of Defense, study team report titled "Review of Unified and Specified Command Headquarters, February 1988": *Provided*, That the evaluation shall specifically include a list of the report recommendations, by command, that the Secretary intends to implement and those recommendations that he does not intend to implement, together with the reasons for rejecting those recommendations not adopted.

(b) The Secretary shall provide for the implementation of those recommendations included in the list submitted under subsection (a) in the five-year defense program submitted to Congress for fiscal years 1990 through 1994 under section 114(g) of title 10, United States Code.

SEC. 8114. During the current fiscal year and thereafter, the Secretary of Defense shall notify the House and Senate Committees on Appropriations when salary increases granted to direct and indirect hire foreign national employees are at a rate in excess of

[1] *Transfer to Department of Transportation, United States Coast Guard.*

the percentage pay increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided to National Government employees of the host nation, whichever is higher.

(TRANSFER OF FUNDS)

SEC. 8115. In addition to any other transfer authority contained in this Act, amounts from the Defense Stock Fund shall be transferred to the Operation and Maintenance appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided*, That such transfers shall not be less than $40,000,000 for Operation and Maintenance, Army Reserve; $40,000,000 for Operation and Maintenance, Air Force Reserve; $50,000,000 for Operation and Maintenance, Army National Guard; and $50,000,000 for Operation and Maintenance, Air National Guard: *Provided further*, That $80,000,000 may be transferred from the Navy Industrial Fund to Operation and Maintenance, Navy, to refund excess asset capitalization charges.

SEC. 8116. During the current fiscal year, the Secretary of Defense may exempt a patient from paying an amount required by section 1079(b)(1) or 1086(b)(3) of title 10, United States Code, if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care: *Provided*, That the Secretary of Defense may, upon request, make payments under section 1079 or 1086 of title 10, United States Code, for a charge for services (which shall not exceed the average amount paid for comparable services in the geographic area in which the hospital is located, or if no comparable services are available in that area, in an area similar to the area in which the hospital is located) for which a claim is submitted under a plan contracted for under section 1079(a) or 1086(a) of title 10, United States Code, to a hospital that does not impose a legal obligation on any of its patients to pay for such services: *Provided further*, That the Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this section, to ensure that the hospital's practice of not billing patients for payment does not result in increased costs to the Government and the Secretary may require each hospital approved for payment under this section to provide evidence that it has sources of revenue to cover un-billed costs.

SEC. 8117. None of the funds appropriated by this or any other Act with respect to any fiscal year for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS program elsewhere.

SEC. 8118. Funds provided by this Act for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) may be used by the Office of CHAMPUS to conduct a pilot project to provide program modifications and efficiencies by amending up to two existing fiscal intermediary contracts: *Provided*, That the Secretary of Defense conducts a separate health care demonstration project, if it is in the best interests of the Government, in the New Orleans,

Louisiana area (the area described in Solicitation Number MDA 903-87-R-0047) that uses a managed health care network, including health care enrollment (as provided for in section 1099, title 10, United States Code): *Provided further,* That the Secretary shall implement this demonstration project no later than September 30, 1989.

SEC. 8119. Notwithstanding section 213(b) of the Joint Chiefs of Staff Reorganization Act of 1985 or any other provision of law, none of the funds in this or any other Act may be used to alter the command structure for military forces in Alaska.

SEC. 8120. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1989 for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided,* That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 8121. No more than $183,179,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

SEC. 8122. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided,* That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further,* That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in States which are not contiguous with another State: *Provided further,* That alcoholic beverages other than wine and malt beverages in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8123. Whereas the Congress supports the President's goal of reducing United States and Soviet conventional forces in Europe and reducing United States and Soviet strategic nuclear forces;

Whereas it is important the Congress and the President be in agreement on United States national security goals and objectives in order for the United States to be in the strongest possible position to negotiate with the Soviet Union future reductions in conventional and strategic nuclear forces;

Whereas the Congress strongly opposes the undercutting of these arms reduction negotiations by either the United States or the Soviet Union through unnecessary military initiatives or counterproductive arms control proposals;

Whereas no decision has been made on the development or deployment of strategic defenses:

Therefore, it is the sense of the Congress that—

(1) in order to maintain the basis for strong deterrence, the Strategic Defense Initiative (SDI) should be a long-term and robust research program to provide the United States with

expanded options for responding to a Soviet breakout from the 1972 Anti-Ballistic Missile Treaty and to respond to other future Soviet arms initiatives that might pose a grave threat to United States national security;

(2) by expanding potential United States strategic options the SDI research program can enhance United States leverage in the United States-Soviet arms reduction negotiations and serve as a safeguard for ensuring that negotiated agreements are kept;

(3) future research plans and budgets for SDI must be established using realistic projections of available resources in the overall defense budget and must not undercut other important Department of Defense programs; and

(4) in matching research priorities against available resources, the primary emphasis of SDI should be to explore promising new technologies, such as directed energy technologies, which might have long-term potential to defend against a responsive Soviet offensive nuclear threat.

SEC. 8124. (a) If a reduction in variable housing allowance (VHA) rates was required subsequent to January 1, 1988, to comply with section 8047 of the Department of Defense Appropriations Act, 1988, a member of the uniformed services who received reduced rates and who, on the effective date of this Act, is still a member of the uniformed services, shall be paid the difference between the VHA rate as reduced subsequent to January 1, 1988, and the VHA rate to which the member would have been entitled under the rates established on January 1, 1988: *Provided*, That such payments shall be made from appropriations provided by this Act.

(b) None of the funds appropriated to the Department of Defense by this or any other Act for fiscal year 1989 shall be available to pay the variable housing allowance authorized members of the uniformed services under section 403a of title 37, United States Code, and the payments authorized by subsection (a) of this section in a total amount in excess of $1,220,000,000: *Provided*, That any reduction in the rates of the variable housing allowance necessitated by the foregoing limitation shall be made as provided in section 403a of title 37, United States Code.

SEC. 8125. (a)(1) Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the assignment of military missions among the member countries of North Atlantic Treaty Organization (NATO) and on the prospects for the more effective assignment of such missions among such countries.

(2) The report shall include a discussion of the following:

(A) The current assignment of military missions among the member countries of NATO.

(B) Military missions for which there is duplication of capability or for which there is inadequate capability within the current assignment of military missions within NATO.

(C) Alternatives to the current assignment of military missions that would maximize the military contributions of the member countries of NATO.

(D) Any efforts that are underway within NATO or between individual member countries of NATO at the time the report is submitted that are intended to result in a more effective assignment of military missions within NATO.

(b) The Secretary of Defense and the Secretary of State shall (1) conduct a review of the long-term strategic interests of the United States overseas and the future requirements for the assignment of members of the Armed Forces of the United States to permanent duty ashore outside the United States, and (2) determine specific actions that, if taken, would result in a more balanced sharing of

defense and foreign assistance spending burdens by the United States and its allies. Not later than August 1, 1989, the Secretary of Defense and the Secretary of State shall transmit to Congress a report containing the findings resulting from the review and their determinations.

(c) The President shall appoint an Ambassador at Large responsible to the President who shall have the responsibility for ensuring a more balanced sharing of defense costs by the NATO members, Japan, the Republic of Korea, and other countries allied to the United States. Such responsibilities shall incude negotiations for burdensharing including increased in-kind and financial support by such countries for Department of Defense military units and personnel assigned to permanent duty ashore outside the United States in support of the security of such countries, and multi-lateral foreign assistance costs: *Provided*, That the Ambassador at Large should review (1) trade restrictions that require German utilities to purchase German-produced coal to the exclusion of foreign coal, including United States coal, and (2) the extent to which the tax on electricity used to subsidize German coal producers is borne by American military installations, American military dependents, or American civilians who support our military installations. The Ambassador at Large should prepare an economic analysis on the comparison of using German versus United States coal at defense facilities in Europe. This analysis should address the issues of all direct subsidies provided on German coal and restrictions imposed on imported coal and should be submitted to the Department of Defense, State, and Commerce for use in their study on the economic benefits of using coal at defense facilities in Europe.

(d) The President shall specify (separately by appropriation account) in the Department of Defense items included in the budgets submitted to Congress under section 1105 of title 31, United States Code, for fiscal years after fiscal year 1989 the amounts necessary for payment of all personnel, operations, maintenance, facilities, and support costs for Department of Defense overseas military units, and the costs for all dependents who accompany Department of Defense personnel outside the Unied States.

(e) Not later than May 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report that sets forth the total costs required to support the dependents who accompany Department of Defense personnel assigned to permanent duty overseas.

(f) As of September 30 of each fiscal year after fiscal year 1989, the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea may not exceed 94,450 (the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea on September 30, 1987). The limitation provided for the preceding sentence may be increased if and when a major reduction of United States forces in the Republic of the Philippines is required because of a loss of basing rights in that nation, and the President determines and certifies to Congress that, as a consequence of such loss, an increase in United States forces stationed in Japan and the Republic of Korea is necessary.

(g)(1) After fiscal year 1990, Department of Defense budget submissions to Congress under section 1105 of title 31, United States Code, shall identify funds requested for Department of Defense personnel and units in permanent duty stations ashore outside the United States that exceed the amount of such costs incurred in fiscal year 1989, and shall detail: (A) a description of the types of expenditures increased, by appropriation account, activity and program; and (B) specific efforts to obtain allied host nations' financing for these cost increases.

(2) The Secretary of Defense shall notify in advance the Committees on Appropriations and Armed Services of the House and Senate through existing notification procedures, when costs of maintaining Department of Defense personnel and units in permanent duty stations ashore will exceed the amounts as defined in the Department of Defense budget as enacted for that fiscal year. Such notification shall describe: (A) the type of expenditures that increased; and (B) the source of funds (including prior year unobligated balances) by appropriation account, activity and program, proposed to finance these costs.

(3) In computing the costs incurred for maintaining Department of Defense personnel and forces in permanent duty stations ashore outside the United States compared with the amount of such costs incurred in fiscal year 1989, the Secretary shall—

(A) exclude increased costs resulting from increases in the rates of pay provided for members of the Armed Forces and civilian employees of the United States Government and exclude any cost increases in supplies and services resulting from inflation; and

(B) include (i) the costs of operation and maintenance and of facilities for the support of Department of Defense overseas personnel, and (ii) increased costs resulting from any decline in the foreign exchange rate of the United States dollar.

(h) The provisions of subsections (f) and (g) shall not apply in time of war or during a national emergency declared by the President or Congress.

(i) In this section—

(1) the term "personnel" means members of the Armed Forces of the United States and civilian employees of the Department of Defense;

(2) the term "Department of Defense overseas personnel" means those Department of Defense personnel who are assigned to permanent duty ashore outside the United States; and

(3) the term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 8126. The Secretary of Defense shall take such action as may be necessary to implement at the earliest practicable date and with funds provided for such purpose under the heading "Army Stock Fund" in title V of this Act, the program proposed by the Department of Defense in a letter, dated August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics to rehabilitate and convert current steam generating plants at defense facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year (including at least 300,000 short tons of anthracite coal) above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: *Provided,* That such action shall be subject to use of only the most cost-effective fuel system in the construction of new plants or the conversion of existing plants; however, this cost-effectiveness requirement is not applicable to a comparison between bituminous and anthracite coal: *Provided further,* That the requirement to purchase 300,000 short tons of anthracite coal expressed in the Department of Defense Appropriations Act, 1988, section 8113, must be complied with: *Provided further,* That, if the Department does not execute contracts to purchase the anthracite coal mandated in the fiscal year 1988 Defense Appropriations Act by September 30, 1988, it shall use such funds as are necessary from appropriations made available in this Act to complete this purchase.

SEC. 8127. (a) Not more than $3,000,000 of the funds appropriated in this Act may be used to carry out the provisions of section 430 of title 37, United States Code.

(b) Of the amount appropriated in this Act for Other Procurement, Air Force, the sum of $18,200,000 may be obligated only for the procurement of 20 Mobile Armored Reconnaissance Vehicles (MARV).

(TRANSFER OF FUNDS)

SEC. 8128. Of the funds made available by this Act to the Department of the Army, $5,500,000 shall be transferred to the Bureau of Land Management for the relocation of the smokejumper facility at Ft. Wainwright, Alaska: *Provided,* That such sum shall remain available until expended. *$5,500,000 (transfer)* [1]

(TRANSFER OF FUNDS)

SEC. 8129. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided,* That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, but shall be available only for the time period of the appropriation from which transferred: *Provided further,* That funds shall be transferred between the following appropriations in the amounts specified: *1,071,600,000 (by transfer)*

(1) From:

Under the heading, "Shipbuilding and Conversion, Navy, 1985/89":

Trident submarine program, $89,200,000;

T-ACS auxiliary crane ship program, $500,000; and

Outfitting and Post Delivery programs, $7,200,000;

Aircraft Procurement, Navy, 1987/89, $28,000,000;

Research, Development, Test, and Evaluation, Navy, 1988/89, $40,000,000; and

Research, Development, Test, and Evaluation, Air Force, 1988/89, $31,000,000;

To: Under the heading, "Shipbuilding and Conversion, Navy, 1985/89":

T-AO fleet oiler ship program, $54,400,000;

MCM mine countermeasures ship program, $30,500,000;

DDG-51 guided missile destroyer program, $105,000,000;

T-AGS ocean survey ship program, $6,000,000;

(2) Under the heading, "Shipbuilding and Conversion, Navy, 1986/90":

From: TRIDENT ballistic missile submarine program, $8,900,000;

To: Mine countermeasures ship program, $8,900,000; and

(3) From:

Aircraft Procurement, Army, 1987/89, $14,800,000;

Missile Procurement, Army, 1987/89, $75,200,000;

Weapons and Tracked Combat Vehicles, Army, 1987/89, $77,600,000;

Other Procurement, Army, 1987/89, $43,100,000;

Weapons Procurement, Navy, 1987/89, $71,900,000;

Other Procurement, Navy, 1987/89, $99,900,000;

Other Procurement, Navy, 1988/90, $10,000,000;

Coastal Defense Augmentation, 1988, $20,000,000;

Aircraft Procurement, Air Force, 1987/89, $110,500,000;

Missile Procurement, Air Force, 1987/89, $103,000,000;

Other Procurement, Air Force, 1987/89, $32,500,000;

National Guard and Reserve Equipment, 1988/90, $82,300,000;

Research, Development, Test, and Evaluation, Army, 1988/89, $10,000,000;

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[1] *Transfer to Department of the Interior, Bureau of Land Management.*

Research, Development, Test, and Evaluation, Air Force, 1988/89, $5,300,000;

To: Under the heading, "Shipbuilding and Conversion, Navy, 1987/91":

DDG-51 destroyer program, $666,000,000;

SSN-688 attack submarine program, $68,600,000;

AO conversion program, $8,000,000;

For craft outfitting and post delivery, $13,500,000; and

(4) From: National Guard and Reserve Equipment, 1988/90, $110,700,000;

To: Other Procurement, Navy, 1989/91, $110,700,000.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8130. In addition to the amounts appropriated or otherwise made available to this Act, $438,800,000 is appropriated for the DDG-51 destroyer program, and in addition, $349,200,000 shall be available by transfer for this program from the following appropriations: Aircraft Procurement, Army, 1988/90, $30,000,000; Missile Procurement, Army, 1988/90, $3,800,000; Weapons and Tracked Combat Vehicles, Army, 1988/90, $71,500,000; Aircraft Procurement, Navy, 1988/90, $61,700,000; Shipbuilding and Conversion, Navy, 1988/92, $126,300,000; Other Procurement, Navy, 1988/90, $53,900,000; and Other Procurement, Air Force, 1988/90, $2,000,000: *Provided*, That the amounts transferred shall remain available for obligation only for the time period provided when originally appropriated. $438,800,000 *349,200,000 (by transfer)*

SEC. 8131. (a) Of the funds made available in this Act to the Department of the Navy, $6,000,000 shall only be available for dredging and emplacement of a portion of dredge material at the critical zone Sandy Hook, New Jersey.

(b) Under the heading entitled "construction, general", in the Energy and Water Development Appropriations Act of 1988, title I (Public Law 100-202; 101 Stat. 1329, 1329-108), amend the paragraph that begins "The Secretary of the Army" and deals with Saxon Harbor, Wisconsin, by deleting the words "wood cribs as".

(c) Section 628 of "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President and certain independent agencies, for the fiscal year ending September 30, 1989, and for other purposes", is hereby amended to add the following at the end thereof:

"(c) This section shall be effective on January 16, 1989.".

SEC. 8132. In applying any rule of statutory construction, the provisions of titles I through IX of this Act shall be deemed to have been enacted after the provisions of the Department of Defense Authorization Act, fiscal year 1989 as set forth in title X of this Act or as set forth in H.R. 4481 (regardless of the actual dates of enactment concerned).

SEC. 8133. The Secretary of Defense shall take such action as necessary to assure that a minimum of 50 percent of the polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992: *Provided*, That the annual goals to achieve this requirement be as follows: 15 percent of the total DOD requirement by 1988; 15 percent of total DOD requirement by 1989; 20 percent of the total DOD requirement by 1990; 25 percent of the total DOD requirement by 1991; and 50 percent of the total DOD requirement by 1992.

SEC. 8134. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $30,000,000. The Secretary of Defense shall allocate the amount of the reduction made by the preceding sentence in the procurement and research, −30,000,000

development, test, and evaluation accounts of the Army, Navy, Air Force, Marine Corps, and Defense Agencies as the Secretary determines appropriate to reflect savings resulting from increased use of discount air fares that (1) are granted by commercial air carriers for travel of Federal Government employees on official Government business under agreements entered into between the Administrator of General Services and such carriers, and (2) are available to contractor personnel traveling in connection with the performance of cost-reimbursable contracts awarded by the Department of Defense.

SEC. 8135. None of the funds made available to the Department of Defense in this Act may be used to plan, design, or procure more than one type of Air Force trainer aircraft.

SEC. 8136. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

SEC. 8137. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $150,000,000 to reflect savings resulting from the decreased use of consulting services by the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1989, report to the Senate and House Committees on Appropriations how this reduction was allocated among the Services and Defense Agencies. —$150,000,000

SEC. 8138. Of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided,* That reimbursements which are not received within one hundred and eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred and eighty first day following submission of an appropriate request for payment.

SEC. 8139. Section 3554 of title 31, United States Code, is amended in subsection (a)(1), by striking out "unless the Comptroller General determines and states in writing the reasons that the specific circumstances of the protest require a longer period".

SEC. 8140. Section 2345 of the Military Construction Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1230), is amended to read as follows:

"SEC. 2345. USE OF SEWAGE FACILITIES AT FORT CHAFFEE, ARKANSAS

"(a) IN GENERAL.—The Secretary of the Army shall permit the City of Barling, Arkansas, to use the sewage treatment facilities at Fort Chaffee under an agreement that would require the city to pay a reasonable cost for the use of such facilities and to pay any reasonable costs incurred by the Army in increasing the capacity of the sewage treatment facilities at Fort Chaffee in order to accommodate the use of such facilities by the city. An agreement entered into

under this section shall be for such period, not less than 20 years, as may be agreed upon by the Secretary and the city.

"(b) REQUIREMENT FOR COMPLETION OF ALL ASSESSMENTS, STUDIES, AND REPORTS.—(1) The Secretary of the Army shall complete all necessary environmental assessments, studies, and reports and all baseline studies that may be required in connection with the increased use and expansion of the sewage treatment facilities at Fort Chaffee as a result of the enactment of this section not later than 120 days after the date of the enactment of this Act.

"(2) The city shall be required to reimburse the United States for all costs incurred by the Secretary in carrying out such assessments, studies, and reports. Such costs shall be amortized over the period of the agreement entered into by the Secretary and the city pursuant to subsection (a).

"(c) DEADLINE FOR AGREEMENT.—The Secretary shall enter into negotiations with the City of Barling at the earliest practicable date after the date of the enactment of this Act regarding the use of the sewage treatment facilities at Fort Chaffee and shall make every effort to conclude negotiations and sign an agreement with the city not later than 150 days after the date of the enactment of this Act.

"(d) ADDITIONAL TERMS AND CONDITIONS.—Any agreement entered into under this section shall be subject to such other terms and conditions as the Secretary of the Army determines necessary or appropriate to protect the interests of the United States.".

SEC. 8141. (a) Not later than 90 days after the date of enactment of this Act, the Administrator of the Office of Federal Procurement Policy shall issue a policy, and not later than 180 days thereafter Government-wide regulations shall be issued under the Office of Federal Procurement Policy Act which set forth—

(1) conflict of interest standards for persons who provide consulting services described in subsection (b); and

(2) procedures, including such registration, certification, and enforcement requirements as may be appropriate, to promote compliance with such standards.

(b) The regulations required by subsection (a) shall apply to the following types of consulting services:

(1) advisory and assistance services provided to the Government to the extent necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States;

(2) services related to support of the preparation or submission of bids and proposals for Federal contracts to the extent that inclusion of such services in such regulations is necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States; and

(3) such other services related to Federal contracts as may be specified in the regulations prescribed under subsection (a) to the extent necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States.

(c) The Comptroller General shall report to Congress not later than one year after the date of enactment of this Act his assessment of the effectiveness of the regulations prescribed under this section.

(d) Intelligence activities as defined in section 3.4(e) of Executive order 12333 or a comparable definitional section in any successor order may be exempt from the regulations required by subsection (a): *Provided*, That the Director of Central Intelligence shall report to the Intelligence and Appropriations Committees of the Congress no later than January 1, 1990, and annually thereafter delineating those activities and organizations which have been exempted from the regulations required by subsection (a) in accordance with the provisions of this subsection.

(e) The President shall, before issuance of the regulations required by subsection (a), determine if the promulgation of such regulations would have a significantly adverse effect on the accomplishment of the mission of the Department of Defense or other Federal Government agencies: *Provided,* That if the President determines that the regulations required by subsection (a) would have such an adverse effect, the President shall so report to the appropriate committees of the Senate and the House of Representatives, stating in full the reasons for such a determination: *Provided further,* That in the event of submission of a report to the committees containing an adverse effect determination, the requirement for the regulations prescribed by subsection (a) shall be null and void.

SEC. 8142. (a) Of the amounts available to the Department of Defense for fiscal year 1989, not less than $10,000,000 shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department.

(b) Fellowships awarded pursuant to subsection (a) above shall not be restricted on the basis of the geographical locations in the United States of the institutions at which the recipients are pursuing the aforementioned advanced degrees.

(c) Not less than 50 per centum of the funds necessary to carry out this section shall be derived from the amounts available for the University Research Initiative Program in "Research, Development, Test, and Evaluation, Defense Agencies", and the balance necessary shall be derived from amounts available for Defense Research Sciences under title IV of this Act.

SEC. 8143. Of the amounts available for obligation for research, development, test, and evaluation, no more than $2,500,000 shall be made available in equal amounts to the Army and the Air Force for the testing and evaluation of low-profile antenna systems for ground level communications: *Provided,* That whatever total amount made available by this section shall only be available if it is matched on an equal basis by any industrial participant in the testing and evaluation: *Provided further,* That the Secretary of the Army and the Secretary of the Air Force shall report the result of these tests and evaluation to the Committees on Appropriations of the Senate and House of Representatives by June 30, 1989.

SEC. 8144. (a) The Congress finds that—

(1) the armed forces of the Soviet Union have waged a brutal war of conquest against the people of Afghanistan for 8 years;

(2) foreign correspondents attempting to cover the war in Afghanistan have always been subject to extreme danger;

(3) the danger to foreign correspondents became even greater in 1984 when the Soviet Ambassador to Pakistan explicitly threatened foreign journalists entering Afghanistan in the company of the Afghan resistance, known as the mujaheddin;

(4) on September 19, 1985, Charles E. Thornton, a medical reporter for the Arizona Republic, was killed by Soviet troops while preparing a story about volunteer doctors in Afghanistan;

(5) on October 9, 1987, Lee Shapiro, of North Bergen, New Jersey, and Jim Lindelof, of California, were ambushed and murdered by Soviet troops while filming a documentary on the war in Afghanistan;

(6) the statements of Abdul Malik, the Afghan interpreter and guide who accompanied Lee Shapiro and Jim Lindelof and who witnessed their deaths, demonstrate that the two Americans were straffed by helicopter gunships of the Soviet Union and shot by Soviet soldiers who then confiscated their equipment and film; and

(7) Charles E. Thornton, Lee Shapiro, and Jim Lindelof displayed great courage by facing the perils of war and the lethal threat directed against correspondents and ultimately gave their lives to inform the world of the struggle for liberty taking place in Afghanistan.

(b) It is the sense of the Congress that the President should posthumously award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof in honor of their brave efforts to document the Afghan struggle for freedom.

TITLE IX—ASSISTANCE FOR THE NICARAGUAN RESISTANCE

SEC. 9001. POLICY.

It is the policy of the United States to advance peace and democracy in Central America and to protect American security interests in the region. In pursuing that policy it is the objective of the United States to seek a just and lasting peace for the region in a manner compatible with the Esquipulas Accord of August 7, 1987, the declaration of the Central American presidents at San Jose, Costa Rica, on January 16, 1988, the Sapoa Agreement of March 23, 1988, and United States national security interests in the region.

SEC. 9002. SPECIAL CONDITIONS WARRANTING EXPEDITED PROCEDURES FOR LEGISLATION CONCERNING TRANSPORTATION OF PREVIOUSLY APPROPRIATED ASSISTANCE HELD IN TITLE BY THE NICARAGUAN RESISTANCE.

If, at any time after enactment of this Act and before the adjournment sine die of the second session of the One Hundredth Congress—

(1) the President finds that the Government of Nicaragua has caused an emergency situation in Central America which is having a critical impact on peace and stability of that region, and

(2) the President has consulted with the presidents of Costa Rica, El Salvador, Honduras, and Guatemala regarding that emergency situation, and

(3) the President submits to the Congress the report described in section 9004(a), and

(4) the President requests the Congress to consider legislation which would authorize the transportation to the Nicaraguan Resistance of previously appropriated assistance held in title by the Nicaraguan Resistance and, if necessary, provide authority for (a) the interchangeability of such assistance with equipment of comparable value and purpose which is owned by the United States, and (b) the transportation of humanitarian and military assistance in the same transportation system, and

(5) the House of Representatives has passed legislation, with or without amendments, with respect to the request under paragraph (4),

then a joint resolution described in section 9013(a)(1), shall be considered in the Senate in accordance with the procedures specified in section 9013 of this title.

SEC. 9003. RESTRICTIONS REGARDING THE EMERGENCY TRANSPORT OF PREVIOUSLY APPROPRIATED ASSISTANCE HELD IN TITLE BY THE NICARAGUAN RESISTANCE.

(a) IN GENERAL.—This section shall only apply upon the enactment of legislation, considered in the Senate in accordance with section 9013, authorizing the transportation to the Nicaraguan Resistance of previously appropriated assistance not to exceed $16,500,000 held in title by the Nicaraguan Resistance and, if nec-

essary, providing authority for the interchangeability of such assistance with equipment of comparable value and purpose which is owned by the United States.

(b) FUNDS FOR TRANSPORTATION.—(1) There shall be transferred to the Secretary of State from unobligated funds from appropriations accounts specified in section 9011—

(A) such sums as are necessary to carry out the transportation requirements described in subsection (a), but not to exceed $5,000,000; and

(B) such sums as are necessary to provide for the indemnification of aircraft leased with funds transferred under clause (A), but not to exceed $20,000,000.

(2) The Secretary of State shall transfer the balance, if any, remaining of funds transferred under paragraph (1)(B) to the appropriations accounts from which such funds were transferred under such paragraph when the transportation requirements described in subsection (a) have been met.

(c) MONITORING BY CONGRESSIONAL COMMITTEES.—(1) The chairmen and ranking minority members of the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate shall be kept fully and currently informed regarding the transportation or exchange of any assistance described in subsection (a), including the value and purpose of the items transported or exchanged and the costs of such transportation.

(2) For purposes of this subsection, the term "fully and currently informed" includes the provision of all records, data, and other information necessary to carry out the monitoring of activities described in this subsection.

(d) ROLE OF THE SECRETARY OF STATE.—The Secretary of State (or his designee) shall be responsible for support, coordination, and supervision of the transportation of assistance described in subsection (a). Such support shall involve the provision of funds as well as the provision and transportation of materiel and other assistance.

(e) The authority granted by this section expires upon delivering of previously appropriated assistance and interchanged assistance authorized by this section.

SEC. 9004. REPORTS.

(a) PRESIDENTIAL REPORT.—At the time of the submission to the Congress by the President of any request for the authority described in section 9002(4), the President shall submit to the Congress a report containing—

(1) a detailed discussion and substantial evidence of the nature of the emergency situation in or adjacent to Nicaragua caused by actions taken by the Government of Nicaragua having a critical impact on peace and stability of the Central American region,

(2) a description of the recommendations made by the presidents of the Central American democracies consulted in accordance with section 9002(2), and

(3) the justification for the transport to the Nicaraguan Resistance of previously appropriated assistance held in title by the Nicaraguan Resistance,

including specific information pertaining to at least two of the following three actions:

(A) Sandinista initiation of an unprovoked military attack and any other hostile action directed against the forces of the Nicaraguan Resistance, as well as participation or support of any hostile actions against such forces by any other foreign country or organized group;

(B) Other blatant violations of the Esquipulas Accord of August 7, 1987, such as suppression of the media and the

internal political opposition, including a denial of its rights to assemble and to hold peaceful demonstrations, and other human rights violations against the people of Nicaragua; and

(C) A continued unacceptable level of military assistance by Soviet-bloc countries, including Cuba.

(b) MONTHLY REPORT BY THE SECRETARY OF STATE.—The Secretary of State shall, not less than once every 30 days after the date of enactment of this Act until the funds provided under this title are expended, submit to the intelligence committees and foreign relations committees of the Congress a report—

(1) describing the conditions in Nicaragua and the use of the funds provided under this title;

(2) a detailed statement of any progress toward a negotiated settlement of the armed conflict in Central America, as agreed to under the Esquipulas Accord of August 7, 1987;

(3) a detailed discussion of United States efforts since the signing of the Sapoa agreement to encourage the Soviet Union to restrict the shipment of Soviet arms to the Government of Nicaragua and specifying Soviet reaction to such efforts;

(4) a discussion reviewing the status of United States national security interests in Central America, with particular attention to the advisability of entering into bilateral negotiations with the Government of Nicaragua concerning—

(A) the termination of the presence of Soviet and Soviet-bloc (including Cuban) military and security advisors in Nicaragua;

(B) the termination of Soviet and Soviet-bloc (including Cuban) assistance to the Government of Nicaragua; and

(C) a prohibition on the establishment or use of bases in Nicaragua by the Soviet Union or any Soviet-bloc country, including Cuba;

(5) a description of United States diplomatic efforts in support of the Esquipulas Accord of August 7, 1987, and the Sapoa Agreement of March 23, 1988, and an analysis of the actions taken by the Nicaraguan Resistance and the Government of Nicaragua to negotiate a settlement under the provisions of these agreements;

(6) an evaluation of the effect that additional military assistance for the Nicaraguan Resistance would have on political and economic stability in Honduras, Costa Rica, and El Salvador, as well as how such assistance would advance the process of negotiation and political settlement in Nicaragua;

(7) a description of the progress made by economic development programs that have been implemented in Honduras, El Salvador, and Costa Rica since the Esquipulas Accord of August 7, 1987, was signed and what effect renewed fighting in Nicaragua would have on these programs; and

(8) a discussion of the policies of the European allies of the United States and the Latin American democracies (outside Central America) toward Central America, and the extent of their support for and cooperation with United States policies regarding the Nicaraguan Resistance.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "intelligence committees" refers to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate; and

(2) the term "foreign relations committees" refers to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

SEC. 9005. PROHIBITION.

Except as provided in this title, no additional assistance may be provided to the Nicaraguan Resistance unless the Congress enacts a law specifically authorizing such assistance.

SEC. 9006. ADDITIONAL HUMANITARIAN ASSISTANCE.

(a) TRANSFER OF FUNDS.—The President shall transfer to the Agency for International Development, from unobligated funds from the appropriations accounts specified in section 9011—

(1) $27,140,000, to provide humanitarian assistance to the Nicaraguan Resistance, to remain available through March 31, 1989, except that funds provided by this subsection shall not be obligated for humanitarian assistance prior to October 1, 1988; and

(2) such funds as may be necessary to provide transportation in accordance with section 9007 for assistance authorized by paragraph (1).

(b) DEFINITION.—For purposes of this section and section 9007, the term "humanitarian assistance" means—

(1) food, clothing, and shelter;

(2) medical services, medical supplies, and nonmilitary training for health and sanitation;

(3) nonmilitary training of the recipients with respect to their treatment of civilians and other armed forces personnel, in accordance with internationally accepted standards of human rights;

(4) payment for such items, services, and training; and

(5) replacement batteries for existing communications equipment.

[1] **SEC. 9007. TRANSPORTATION OF HUMANITARIAN ASSISTANCE.**

(a) IN GENERAL.—The transportation of humanitarian assistance on or after the date of enactment of this Act which, before such date, was specifically authorized by law to be provided to the Nicaraguan Resistance, or which is authorized to be provided by section 9006, shall be arranged—

(1) in the case of the forces of the Nicaraguan resistance outside Nicaragua, solely by the Agency for International Development; and

(2) in the case of the forces of the Nicaraguan resistance in Nicaragua, solely by the Agency for International Development, acting through the Nicaraguan resistance, the Pan American Development Foundation, or a similar nongovernmental organization, consistent with the provisions of the Sapoa Agreement and any subsequent agreement between the parties to the armed conflict in Nicaragua.

(b) PROHIBITION ON MIXED LOADS.—Transportation of any military assistance, or of any assistance other than that specified in section 9006(b), is prohibited.

SEC. 9008. MEDICAL ASSISTANCE.

There are hereby transferred to the Administrator of the Agency for International Development from unobligated funds from appropriations accounts specified in section 9011, $5,000,000, to be used only for the provision of medical assistance for the civilian victims of the Nicaraguan civil strife to be transported and administered by the Catholic Church in Nicaragua.

[1] Copy read "SEC. 9007. (a) IN GENERAL.—".

SEC. 9009. UNITED STATES POLICY CONCERNING ECONOMIC ASSISTANCE FOR CENTRAL AMERICA.

As part of an effort to promote democracy and address on a long-term basis the economic causes of regional and political instability in Central America—

(1) in recognition of the recommendations of groups such as the National Bipartisan Commission on Central America, the Inter-American Dialogue, and the Sanford Commission,

(2) to assist in the implementation of these economic plans and to encourage other countries in other parts of the world to join in extending assistance to Central America,

(3) and in the context of an agreement to end military conflict in the region,

the Congress encourages the President to submit proposals for bilateral and multilateral action—

(A) to provide additional economic assistance to the democratic countries of Central America to promote economic stability, expand educational opportunity, foster progress in human rights, bolster democratic institutions, and strengthen institutions of justice;

(B) to facilitate the ability of Central American economies to grow through the development of their infrastructure, expansion of exports, and the strengthening of increased investment opportunities;

(C) to provide a more realistic plan to assist Central American countries in managing their foreign debt; and

(D) to develop these initiatives in concert with Western Europe, Japan, and other democratic allies.

SEC. 9010. ECONOMIC INCENTIVES FOR DEMOCRACY IN NICARAGUA SIMILAR TO THOSE AVAILABLE TO CENTRAL AMERICAN DEMOCRACIES.

(a) CONDITION ON TERMINATION OF TRADE EMBARGO AND PROVISION OF RELOCATION ASSISTANCE.—(1) If the Government of Nicaragua and the Nicaraguan Resistance sign a comprehensive final agreement to provide for peace and democracy in Nicaragua, then—

(A) the President shall terminate the trade embargo imposed against Nicaragua by Executive order 12513 of May 1, 1985; and

(B) there shall be transferred to the President from unobligated funds from the appropriations accounts specified in section 9011, $10,000,000, to remain available for a period of twelve months after the signing of the agreement, to provide assistance for the relocation in Nicaragua and the reintegration into Nicaraguan civil society of members of the Nicaraguan Resistance, and the Nicaraguans outside Nicaragua displaced by the conflict.

(2) Nothing in this section shall be construed to limit the authority of the President under the International Emergency Economic Powers Act.

(b) TRADE BENEFITS.—On or after the date which is 180 days after the date of signing of the agreement described in subsection (a), if the President certifies to the Congress that the Government of Nicaragua is continuing to comply with that agreement, then the President may, notwithstanding any other provision of law—

(1) designate Nicaragua a beneficiary country for purposes of proposals referred to in section 9009 and for purposes of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.);

(2) designate Nicaragua a beneficiary developing country for purposes of title V of the Trade Act of 1974 (relating to the generalized system of preferences); and

(3) authorize loan assistance to Nicaragua under the Export-Import Bank Act of 1945.

(c) INTERPRETATION.—Authority granted by subsections (a) and (b) shall be in addition to, and shall not be construed to limit, authority otherwise available to the President by law.

SEC. 9011. AVAILABLE APPROPRIATIONS ACCOUNTS.

The appropriations accounts referred to in sections 9003(b), 9006, 9008, and 9010(a)(1)(B) are non-ammunition procurement accounts in any of the following:

(1) the Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190);

(2) the Department of Defense Appropriations Act, 1987, as contained in section 101(c) of the further continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591); and

(3) the Department of Defense Appropriations Act, 1988, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1988 (Public Law 100-202).

SEC. 9012. PROHIBITION ON THE USE OF CERTAIN FUNDS.

Except as provided in this title, no funds available to any agency or entity of the United States Government under this title may be obligated or expended pursuant to section 502(a)(2) of the National Security Act of 1947 for the purpose of providing funds, materiel, or other assistance to the Nicaraguan Resistance to support military or paramilitary operations in Nicaragua.

SEC. 9013. CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTIONS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "joint resolution" means, except as otherwise provided, only a joint resolution or bill described in section 9002(5) which originated in the House of Representatives and is received in the Senate;

(2) the term "session days" means days on which the Senate is in session.

(b) REFERRAL OF JOINT RESOLUTION.—A joint resolution referred in the Senate shall be referred to the Committee on Foreign Relations of the Senate.

(c) COMMITTEE ACTION.—(1) If the Committee on Foreign Relations has not reported such joint resolution (or an identical joint resolution) at the end of 3 session days after its introduction, such Committee shall be discharged from further consideration of such joint resolution, and such joint resolution shall be placed on the appropriate calendar of the Senate.

(2) After the Committee on Foreign Relations reports or is discharged from a joint resolution, no other joint resolution with respect to the same matter may be reported by or be discharged from such Committee while the first joint resolution is before the Senate (including remaining on the calendar), a committee of conference, or the President.

(d) FLOOR ACTION.—(1) When the Committee on Foreign Relations has reported, or has been discharged under subsection (c) from further consideration of such joint resolution, notwithstanding any rule or precedent of the Senate, including Rule 22, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for the Majority Leader, after consultation with the Minority Leader, to move to proceed to the consideration of the joint resolution and, except as provided in paragraph (2) of this subsection (insofar as it relates to germaneness and relevancy of amendments), all points of order against the joint resolution and

consideration of the joint resolution are waived. The motion is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall be in order, except that such motion may not be entered for future disposition. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate, to the exclusion of all other business, until disposed of.

(2)(A) Consideration in the Senate of the joint resolution, and all amendments and debatable motions in connection therewith, shall be limited to not more than 10 hours, which, except as otherwise provided in this section, shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader, or by their designees. The Majority Leader or the Minority Leader or their designees may, from the time under their control on the joint resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(B)(i) Subject to subparagraph (ii), only amendments which are germane and relevant to the joint resolution are in order. Debate on any amendment to the joint resolution shall be limited to 2 hours, except that debate on any amendment to an amendment shall be limited to 1 hour. The time of debate for each amendment shall be equally divided between, and controlled by, the mover of the amendment and the manager of the joint resolution, except that in the event the manager is in favor of any such amendment, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

(ii) It shall be in order for the Majority Leader or the Minority Leader to offer one amendment to strike out the text of the House originated measure and insert in lieu thereof the following text: "That the Congress hereby authorizes the President to transport to the Nicaraguan Resistance all previously appropriated assistance held in title by the Nicaraguan Resistance and provides, if requested, (A) the authority for the interchangeability of the assistance with certain equipment, and (B) the transportation of humanitarian and military assistance in the same transportation system.".

(C) A motion to postpone the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is in order, except that such motion may not be entered for future disposition, and debate on such motion shall be limited to 1 hour.

(3) Whenever all the time for debate on a joint resolution has been used or yielded back, no further amendments may be proposed, and the vote on the adoption of the joint resolution shall occur, except that a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate may occur immediately before such vote.

(4) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate to the procedure relating to a joint resolution shall be limited to one-half hour of debate, equally divided between, and controlled by, the Senator making the appeal and the manager of the joint resolution, except that in the event the manager is in favor of any such appeal, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

(e) RESOLUTION OF DIFFERENCES BETWEEN THE HOUSE AND THE SENATE.—(1)(A) The time for debate in a House of Congress on all motions required for the disposition of amendments between the Houses shall not exceed 2 hours, equally divided between, and controlled by, the mover of the motion and the manager of the joint resolution at each stage of the proceedings between the two Houses, except that in the event the manager is in favor of any such motion, the time in opposition thereto shall be controlled by the Minority

Leader or his designee. In the case of any disagreement between the two Houses of Congress with respect to a joint resolution which is not resolved, any Member of Congress may make any motion or motions referred to in this subparagraph within 2 session days after action by the second House or before the appointment of conferees, whichever comes first. In the event the conferees are unable to agree within 72 hours after the second House is notified that the first House has agreed to conference, they shall report back to their respective House in disagreement.

(B) Notwithstanding any rule in either House of Congress concerning the printing of conference reports in the Congressional Record or concerning any delay in the consideration of such reports, such report, including a report filed or returned in disagreement, shall be acted on in the House of Representatives and the Senate not later than 2 session days after the first House files the report or, in the case of the Senate acting first, the report is first made available on the desks of the Senators. Debate in a House of Congress on a conference report or a report filed or returned in disagreement on any such joint resolution shall be limited to 3 hours, equally divided between, and controlled by, the Majority Leader and the Minority Leader, and their designees.

(2) If a joint resolution is vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to 6 hours in each House of Congress, equally divided between, and controlled by, the Majority Leader and the Minority Leader, or their designees.

(f) CONGRESSIONAL RULEMAKING POWERS.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, (insofar as it applies to that House), but applicable only with respect to the procedure to be followed in that House in the case of legislation described in this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 9014. STANDARDS, PROCEDURES, CONTROLS AND OVERSIGHT.

(a) ACCOUNTABILITY STANDARDS, PROCEDURES, AND CONTROL.—In implementing this title, the Agency for International Development, and any other agency of the United States Government authorized to carry out activities under this title, shall adopt the standards, procedures, and controls for the accountability of funds comparable to those applicable with respect to the assistance for the Nicaraguan Resistence provided under section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202), any changes in such standards, procedures, and controls shall be developed and adopted in consultation with the Committees on Intelligence and Foreign Relations pursuant to subsection (b).

(b) CONGRESSIONAL OVERSIGHT.—Oversight within the House of Representatives and the Senate with respect to activities under this title shall be—

(1) with respect to nonlethal assistance, within the jurisdiction of the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate;

(2) with respect to lethal assistance, the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate; and

(3) with respect to both lethal and non-lethal assistance, the Committees on Appropriations of the House and Senate.

(c) DEFINITION.—For purposes of subsection (a), the term "intelligence committees of the Congress" refers to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(d) The provisions of the Act of April 1, 1988 (Public Law 100-276) contained in subsections (b), (d), and (e) of section 4 and section 5 shall apply to the provision of assistance under this title except that section 4(d) shall not apply to the Intelligence Community.

(e) AID ADMINISTRATIVE EXPENSES.—There shall be transferred from unobligated funds from appropriations accounts specified in section 9011 not to exceed $4,000,000 to "Operating Expenses of the Agency for International Development" to meet the necessary administrative expenses to carry out this title.

TITLE X—DEFENSE AUTHORIZATIONS

SEC. 10001. ENACTMENT OF FISCAL YEAR 1989 DEFENSE AUTHORIZATION BILL.

The provisions of the bill H.R. 4481 of the One Hundredth Congress, as contained in the conference report filed in the House of Representatives on September 28, 1988 (House Report 100-989), are hereby enacted into law.

SEC. 10002. TERMINATION OF PROVISIONS UPON ENACTMENT OF AUTHORIZATION BILL.

Section 10001 shall not take effect if the bill H.R. 4481 of the One Hundreth Congress is enacted before this Act. If that bill is enacted after this Act, the provisions of section 10001 shall cease to be effective upon the enactment of that bill.

SEC. 10003. INCREASE IN CERTAIN AUTHORIZATION AMOUNTS.

(a) PROCUREMENT.—Title I of the National Defense Authorization Act, [2] fiscal year 1989, is amended as follows:

(1) AIRCRAFT PROCUREMENT, NAVY.—Section 102(a) is amended by striking out "$9,259,253,000" and inserting in lieu thereof "$9,415,311,000.".

(2) WEAPONS PROCUREMENT, NAVY.—Section 102(b) is amended—

(A) by striking out "$5,972,181,000" in the matter preceding the colon and inserting in lieu thereof "$6,154,032,000";

(B) by striking out "$3,203,737,000" in paragraph (2) and inserting in lieu thereof "$3,245,154,000"; and

(C) in paragraph (3)—

(i) by striking out "$700,054,000" in the matter preceding the colon and inserting in lieu thereof "$840,488,000";

(ii) by striking out "$431,014,000" in the item relating to the MK-48 torpedo program and inserting in lieu thereof "$485,000,000"; and

(iii) by striking out "$17,552,000" in the item relating to the Vertical Launched ASROC torpedo program and inserting in lieu thereof "$105,000,000".

[2] Copy read "Fiscal Year".

(3) SHIPBUILDING AND CONVERSION, NAVY.—Section 102(c) is amended—

(A) by striking out "$9,056,100,000" in the matter preceding the colon and inserting in lieu thereof "$10,013,900,000";

(B) by striking out "$2,207,300,000" in the item relating to the DDG–51 program and inserting in lieu thereof "$2,646,100,000";

(C) by striking out "$284,900,000" in the item relating to the TAO–187 fleet oiler program and inserting in lieu thereof "$689,900,000"; and

(D) by striking out "$192,600,000" in the item relating to the landing craft, air cushion program and inserting in lieu thereof "$306,600,000".

(4) RESERVE COMPONENTS.—Section 106 is amended—

(A) in the matter relating to the Army National Guard, by striking out "$240,000,000" and inserting in lieu thereof [3] "$256,000,000";

(B) in the matter relating to the Air National Guard, by striking out "$216,500,000" and inserting in lieu thereof "$399,500,000";

(C) in the matter relating to the Naval Reserve, by striking out "$75,000,000" and inserting in lieu thereof "$144,600,000"; and

(D) in the matter relating to the Marine Corps Reserve, by striking out "$50,000,000" and inserting in lieu thereof "$81,800,000".

(b) SPECIAL OPERATIONS ENHANCEMENT.—Part B of title VII is amended by adding at the end the following new section:

"SEC. 716. SPECIAL OPERATIONS FORCES ENHANCEMENT.

"In addition to the amounts otherwise authorized to be appropriated by this Act, there is hereby authorized to be appropriated to the Department of Defense for fiscal year 1989 the sum of $286,000,000. Amounts appropriated pursuant to the preceding sentence shall be available only for equipping and operating Special Operations Forces.".

[*Total, title VIII, General Provisions:*

[*New budget (obligational) authority*	*$108,800,000.*]
[*By transfer*	*1,420,800,000.*]
[*Transfer authority*	*3,000,000,000.*]
[*Transfer to other agencies*	*6,500,000.*]

This Act may be cited as the "Department of Defense Appropriations Act, 1989".

[3] Copy read " "$256,000,000;".

Approved October 1, 1988.

LEGISLATIVE HISTORY—H.R. 4781

HOUSE REPORTS: No. 100-681 (Comm. on Appropriations) and No. 100-1002 (Comm. of Conference).
SENATE REPORT No. 100-402 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 10, reported in the House.
June 21, considered and passed House.
June 24, reported in the Senate.
Aug. 4, 5, 8, 9, 10, and 11, considered and passed Senate, amended.
Sept. 28, conference report filed in the House.
Sept. 30, House agreed to conference report; receded and concurred in certain Senate amendments and receded and concurred with amendments in others. Senate agreed to conference report; agreed to certain House amendments, and in others with amendments. House agreed to Senate amendments to House amendments to Senate amendments.

Grand total:		
New budget (obligational) authority	$282,412,350,000	
By transfer	*(1,510,800,000)*	
Transfer authority	*(3,000,000,000)*	
Transfer to other agencies	*(6,550,000)*	
Total, new budget (obligational) authority, Department of Defense Appropriations Act, 1989		$282,412,350,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1989 contained in the foregoing annual appropriations act, the following additional amounts are available for the Department of Defense for the fiscal year.

Permanent appropriations:		
Federal funds (p. 2224)	$217,000,000	
Trust funds (pp. 2241-2242)	24,200,000	
Advance appropriations for fiscal year 1989 made during previous session of Congress:		
99th Cong., 2d session:		
Military Construction, Army (p. 459, 1986-1987 volume)	[1] *(214,000,000)*	
Military Construction Appropriations Act, 1989:		
Department of the Army (pp. 349-356)	2,769,639,000	
Department of the Navy (pp. 349-356)	2,486,757,000	
Department of the Air Force (pp. 349-356)	2,365,919,000	
Department of Defense (net) (pp. 349-356)	1,174,685,000	
Subtotal, additions		9,038,200,000
Deduct amounts transferred to General Government totals:		
General government:		
Central Intelligence Agency Retirement and Disability System Fund (p. 74)	$144,500,000	
Intelligence Community Staff (p. 74)	23,645,000	
Subtotal, deductions		−168,145,000
Grand total, Department of Defense		291,282,405,000

[1] Also included under "Permanent appropriations, Federal funds".

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1989

Public Law 100-462

100th Congress, H.R. 4776

October 1, 1988

AN ACT

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—FISCAL YEAR 1989 APPROPRIATIONS

Federal Payment to the District of Columbia

For payment to the District of Columbia for the fiscal year ending September 30, 1989, $430,500,000: *Provided,* That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date. $430,500,000

Federal Payment for Water and Sewer Services

For payment to the District of Columbia for the fiscal year ending September 30, 1989, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $32,040,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43-1552 and 43-1612). 32,040,000

Federal Contribution to Retirement Funds

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000. 52,070,000

ENROLLMENT ERRATA

Pursuant to the provisions of H.J. Res. 665, authorizing the hand enrollment of appropriations bills for fiscal year 1989, and authorizing the subsequent, post-enactment of preparation of printed enrollment of those bills, any changes made in this printed version will be footnoted.

NOTE.—Footnotes in italics have been added by the editor of this document and are not related to enrollment errata mentioned above.

derived from the general fund and not to exceed $6,141,000 shall be derived from the earnings of the applicable retirement funds: *Provided further*, That the District of Columbia Retirement Board shall provide to the Congress and the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor for transmittal to the Council of the District of Columbia an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further*, That of the $150,000 appropriated for fiscal year 1989 for Admission to Statehood, $75,000 shall be for the Statehood Commission and $75,000 shall be for the Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That no part of these funds shall be used for lobbying to support or defeat legislation pending before Congress or any State legislature.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $144,616,000: *Provided*, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further*, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further*, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia: *Provided further*, That up to $270,000 within the 15 percent set-aside for special programs within the Tenant Assistance Program shall be targeted for the single-room occupancy initiative. *($144,616,000)*

PUBLIC SAFETY AND JUSTICE

Public Safety and justice, including purchase of not to exceed 135 passenger-carrying vehicles for replacement only (including 130 for police-type use and five for fire-type use) without regard to the general purchase price limitation for the current fiscal year, $734,207,000: *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That funds appro- *($734,207,000)*

priated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090: Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1989, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1989, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: *Provided further,* That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County and Prince William County, Virginia for expenses incurred by the counties during fiscal year 1989 in relation to the Lorton prison complex. Such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further,* That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: *Provided further,* That the staffing levels of two piece engine companys within the Fire Department shall be maintained in accordance with the provisions of article III, section 18 of the Fire Department Rules and Regulations as then in effect, until final adjudication by the relevant courts: *Provided further,* That none of the funds provided in this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986: *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services which are performed in emergencies by the National Guard in a militia status and which are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and their availability shall be deemed as constituting payment in advance for the emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $623,924,000, to be allocated as follows: $452,403,000 for the public schools of the District of Columbia; $70,100,000 for the District of Columbia Teachers' Retirement Fund; $76,310,000 for the University of the District of Columbia; $18,515,000 for the Public Library; $4,192,000 for the Commission on the Arts and Humanities; $1,948,000 for the District of Columbia School of Law; and $456,000 for the Educational Institution Licensure Commission: *Provided*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1989, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area. *($623,924,000)*

HUMAN SUPPORT SERVICES

Human support services, $744,901,000: *Provided*, That $17,000,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That of the funds provided for the D.C. General Hospital subsidy, $646,000 shall be used for providing health care to homeless persons. *(744,901,000)*

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $218,925,000, of which not to exceed $3,900,000 shall be available for the School Transit Subsidy: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business: *Provided further*, That the Taxicab Commission shall report to the Committees on Appropriations of the Senate and House of Representatives by January 15, 1989 on a plan as outlined in Senate Report 100-162 to issue and implement regulations including but not limited to the age of vehicles, frequency of inspection, and cleanliness of vehicles. *(218,925,000)*

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $7,274,000: *Provided*, That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit. *(7,274,000)*

Repayment of Loans and Interest

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act amendments, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $235,796,000. *($235,796,000)*

Repayment of General Fund Deficit

For the purpose of reducing the $204,593,000 general fund accumulated deficit as of September 30, 1987, $20,000,000, of which not less than $19,000,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both): *Provided*, That if the Federal payment to the District of Columbia for fiscal year 1989 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order. *(20,000,000)* *(−19,000,000)*

[Total, repayment of general fund deficit (net), $1,000,000.]

Short-Term Borrowings

For the purpose of funding interest related to borrowing funds for short-term cash needs, $4,570,000. *(4,570,000)*

Optical and Dental Benefits

For optical and dental costs for nonunion employees, $2,569,000. *(2,569,000)*

Inaugural Expenses

For reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1803), $2,300,000, which shall be apportioned by the Mayor within the various appropriation headings in this Act. *(2,300,000)*

ENERGY ADJUSTMENT

The Mayor shall reduce authorized energy appropriations and expenditures within object class 30a (energy) in the amount of $2,070,000, within one or several of the various appropriation headings in this Act. *(−$2,070,000)*

PERSONAL SERVICES ADJUSTMENT

The Mayor shall reduce appropriations and expenditures for personal services within object classes 11, 12, 13, and 14 in the amount of $2,747,000 through a selective hiring freeze within one or several of the various appropriation headings in this Act. *(−2,747,000)*

[Total, operating expenses, general fund, $2,833,704,000.]

CAPITAL OUTLAY

For construction projects, $138,336,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 to 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, secs. 9–219 and 47–3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85–692; D.C. Code, sec. 40–805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91–143; D.C. Code, secs. 1–2451, 1–2452, 1–2454, 1–2456, and 1–2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $10,276,000 shall be available for project management and $7,298,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further,* That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That $950,000 for the Department of Recreation and $4,703,000 for the Department of Public Works for pay-as-you-go capital projects shall be financed from general fund operating revenues: *Provided further,* That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, **shall expire on September 30, 1990, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1990: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.** *(138,336,000)*

Water and Sewer Enterprise Fund

For the Water and Sewer Enterprise Fund, $200,805,000, of which $34,085,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects. *($200,805,000)*

For construction projects, $24,200,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): *Provided*, That the requirements and restrictions which are applicable to general fund capital improvement projects and are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title: *Provided further*, That of the $29,652,000 in water and sewer enterprise fund operating revenues for pay-as-you-go capital projects, $10,500,000 shall fund new authority in the fiscal year 1989 capital budget, $15,110,000 shall fund prior year capital project authority, and $4,042,000 shall provide a cash reserve in the capital projects fund in order to meet financing needs caused by the time lag in securing bond financing. *(24,200,000)*

[*Total, Water and Sewer Enterprise Fund, $225,005,000.*]

Lottery and Charitable Games Enterprise Fund

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981, as amended (95 Stat. 1174, 1175; Public Law 97-91), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $8,050,000, to be derived from non-Federal District of Columbia revenues: *Provided*, That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board. *(8,050,000)*

Cable Television Enterprise Fund

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $1,000,000. *(1,000,000)*

[*Total, enterprise funds, $234,055,000.*]

[*Total, District of Columbia funds, $3,206,095,000.*]

General Provisions

Sec. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Sec. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

(judgment payments, indefinite)

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1989, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 38,471, the number of positions authorized by this Act.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during nonschool hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1990, shall be transmitted to the Congress by no later than April 15, 1989.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency, Federalism and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 117. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an

Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1988 shall be deemed to be the rate of pay payable for that position for September 30, 1988.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency and the District's best interest.

SEC. 128. No later than 30 days after the end of the first quarter of fiscal year 1989, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1989 revenue estimates as of the end of the first quarter of fiscal year 1989. These estimates shall be used in the fiscal year 1990 annual budget request. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 129. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1988" and inserting in lieu thereof "sold before October 1, 1989".

SEC. 130. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85), except that the District of Columbia Public Schools may renew or

extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 131. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided,* That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 132. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided,* That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act which are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended.

SEC. 133. (a) Within 30 days after the date of the enactment of this Act, the United States, acting through a duly authorized official, shall convey to the District of Columbia, without consideration, all right, title, and interest of the United States, in the real property described in subsection (b) (and any improvements thereon).

(b) The real property referred to in subsection (a) is that property which is described in the Maryland Department of Assessments and Taxation, Prince George's County, tax map #45 grid C-2, parcel 153, and tax map #45 grid C-3, parcel 124.

SEC. 134. None of the funds available to the District of Columbia government shall be used for any purpose involved in billing individual agencies or establishments for water and water services and sanitary sewer services traditionally funded under the account "Federal Payment for Water and Sewer Services" unless and until existing statutes (sections 106 and 212 of the District of Columbia Public Works Act of 1954, as amended, Public Law 364, approved May 18, 1954; 68 Stat. 101; D.C. Code, sections 43-1552 and 43-1612), are amended to specifically provide for such billing.

SEC. 135. (a) Section 11-1563(d), D.C. Code is amended—

(A) by inserting "or while receiving retirement salary under this subchapter but before having recouped all contributions," before "the lump-sum credit for retirement"; and

(B) by inserting "or the balance after deduction of retirement salary paid prior to death, if applicable," before "shall be paid,".

(b) The Mayor, within 30 days after the enactment of this Act, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply fully with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, D.C. Code, secs. 1-722(d) and 1-724(d)).

SEC. 136. (a) Within 30 days after the date of enactment of this Act, the United States, acting through a duly authorized official, shall convey to the District of Columbia without consideration, all right, title, and interest of the United States, in the real property described in subsection (b) (and any improvements thereon).

(b) The real property referred to in subsection (a) is that property (commonly known as the District of Columbia Employment Security Building at 500 C Street, Northwest) located in the District of Columbia in Square 491 described in a deed from the District of Columbia to the United States dated April 20, 1961, and recorded on April 26, 1961, as instrument number 11232 in liber 11589, folio 135 of the District of Columbia.

(c) If for any reason the District of Columbia should dispose of the real property described in subsection (b) (and any improvements thereon), such disposition shall be in accordance with procedures established by the Federal Department of Labor as are applicable to any of the 50 States.

SEC. 137. Section 147 of the Surface Transportation and Uniform Reallocation Assistance Act of 1987 (Public Law 100-17, approved April 2, 1987) is repealed.

SEC. 138. Notwithstanding section 110 of this Act, appropriations in this Act shall not be available, during the fiscal year ending September 30, 1989, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 38,512, the number of positions authorized by this Act.

SEC. 139. (a) Up to 118 officers or members of the Metropolitan Police Department who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1989 shall be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement Reform Act, as amended, approved September 30, 1983 (97 Stat. 727; D.C. Code, sec. 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act.

(b) The Mayor, within 30 days after the enactment of this Act, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, D.C. Code, secs. 1-722(d) and 1-724(d)).

(c) If any of the 118 light duty positions that may become vacant under subsection (a) are filled, a civilian employee shall be hired to fill that position.

SEC. 140. (a) Notwithstanding any other provision of law, for purposes of zoning regulations of the District of Columbia, the premises on squares 4302 through 4305, and parcels 167/64, 167/65, 167/67 and 167/68 in the District of Columbia shall be considered to be an eleemosynary institution in accordance with the decision of the Deputy Zoning Administrator on December 23, 1986, as authorized by the Certificate of Occupancy Number B-26019 dated November 8, 1960, and that the current use of the premises is within the non-conforming use of rights as permitted by such Certificate of Occupancy.

(b) Subsection (a) shall not be construed to require any new license unless such was required by District of Columbia law prior to the adoption of Zoning Commission Order Number 347 dated July 9, 1981.

SEC. 141. (a) If by May 1, 1989, the District of Columbia government has not adopted, and implemented no later than September 30, 1989, a preference system that does not preclude the hiring of noncity residents, none of the funds provided or otherwise made available by this Act may be used to pay the salary or expenses of any officer, employee, or agent who is engaged in implementing, administering, or enforcing a District of Columbia residency requirement with respect to employees of the Government of the District of Columbia.

(b) After the date of enactment of this section, the District shall not dismiss any employees currently facing adverse job action for failure to comply with the residency requirement.

SEC. 142. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 143. None of the Federal funds appropriated by this Act shall be obligated or expended after December 31, 1988, if on that date the District of Columbia has not repealed District of Columbia Law 6-170, the Prohibition of Discrimination in the Provision of Insurance Act of 1986 (D.C. Law 6-170), amended the law to allow testing for the human immunodeficiency virus as a condition for acquiring all health, life and disability insurance without regard to the face value of such policies. Eligibility for coverage and premium costs shall be determined in accordance with ordinary practices. (2)

SEC. 144. None of the funds appropriated under this Act for the Mayor of the District of Columbia shall be expended after January 1, 1989, if on that date, using existing powers, the Department of Human Services has not implemented a system of mandatory reporting of individual abortions performed in the District of Columbia; and categories of data collected under such system shall be substantially similar to those collected by the National Center for Health Statistics: *Provided*, That the Department of Human Services shall not require reporting of the identity of the aborting woman or the abortion provider, and shall ensure that the identity of the aborting woman and abortion provider remain strictly confidential, and data be used for statistical purposes only.

NATION'S CAPITAL RELIGIOUS LIBERTY AND ACADEMIC FREEDOM ACT

SEC. 145. (a) This section may be cited as the [1] "Nation's Capital Religious Liberty and Academic Freedom Act".

(b) None of the funds appropriated by this Act shall be obligated or expended after December 31, 1988, if on that date the District of Columbia has not adopted subsection (c) of this section.

(c) Section 1-2520 of the District of Columbia Code (1981 edition) is amended by adding after subsection (2) the following new subsection:

"(3) Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization or closely associated with the tenets of a religious organization to deny, restrict, abridge, or condition—

"(A) the use of any fund, service, facility, or benefit; or

"(B) the granting of any endorsement, approval, or recognition,

to any person or persons that are organized for, or engaged in, promoting, encouraging, or condoning any homosexual act, lifestyle, orientation, or belief.".

[*Total, title I, Fiscal Year 1989 Appropriations:*
[*Federal funds to the District of Columbia* *$536,910,000.*]
[*District of Columbia funds* ..... *3,206,095,000.*]

[1] Copy read "Nation's Capital Religious Liberty and Academic Freedom Act".".

[2] *Should read "or amended the law . . .".*

TITLE II—FISCAL YEAR 1988

SUPPLEMENTAL APPROPRIATIONS

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $2,168,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-91 to 1329-92), $3,525,000 are rescinded. *($2,168,000)*

(−3,525,000) (rescission)

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $143,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-92), $15,779,000 are rescinded. *(143,000)*

(−15,779,000) (rescission)

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $33,253,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-92 to 1329-93), $2,000 are rescinded. *(33,253,000)*

(−2,000) (rescission)

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $13,900,000 which shall be allocated for the public schools of the District of Columbia: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-93 to 1329-94), $210,000 for the District of Columbia School of Law, $549,000 for the Public Library, and $355,000 for the Commission on the Arts and Humanities are rescinded. *(13,900,000)*

(−1,114,000) (rescissions)

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $24,467,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-94), $8,578,000 are rescinded: *Provided further,* That an additional $2,545,000, to remain available until expended, shall be available solely for the District of Columbia employees' disability compensation: *Provided further,* That the $990,000 appropriated in the District of Columbia Appropriations *(24,467,000)*

(−8,578,000) (rescission)

Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c)) shall be solely for Project Volta and shall remain available until expended: *Provided further,* That $746,054 in funds made available to the District of Columbia pursuant to the Employment Security Administrative Financing Act of 1954, approved August 5, 1954 (68 Stat. 668; 42 U.S.C. 1103), shall be appropriated for the purpose of providing $39,210 towards the purchase of an optical character reader and $706,844 to pay unemployment insurance staff salaries and benefits: *Provided further,* That the $746,054 referred to in the preceding proviso shall be withdrawn and expenses incurred after the enactment date of this Act and shall not be available for obligation after the close of a 12-month period which begins on the date of the enactment of this Act.

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public works", $2,783,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-94), $2,625,000, including $241,000 from the school transit subsidy are rescinded. *($2,783,000)* *(−2,625,000) (rescission)*

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-95), $1,005,000 are rescinded. *(−1,005,000) (rescission)*

REPAYMENT OF GENERAL FUND DEFICIT

For an additional amount for "Repayment of general fund deficit", $118,000. *(118,000)*

OPTICAL AND DENTAL BENEFITS

For an additional amount for "Optical and dental benefits", $1,080,000. *(1,080,000)*

PERSONAL SERVICES

For "Personal services", for pay increases and related costs, to be transferred by the Mayor of the District of Columbia to the various appropriation titles for fiscal year 1988 from which employees are properly payable, $34,150,000, which includes a 12 percent pay absorption to be apportioned among the various appropriation titles by the Mayor. *(34,150,000)*

ADJUSTMENTS

Of the funds appropriated under the various appropriation titles in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-90 to 1329-104), $911,000, as determined by the Mayor, are rescinded. *(−911,000) (rescission)*

[*Total, operating expenses, general fund (net), $78,523,000.*]

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $6,340,000, to remain available until expended. *(6,340,000)*

WATER AND SEWER ENTERPRISE FUND

For an additional amount for "Water and sewer enterprise fund", $39,750,000, of which $8,385,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects and $31,365,000 shall be for pay-as-you-go capital projects, of which $10,500,000 shall be for new capital project authority for fiscal year 1988 and $20,865,000 shall be for prior-year capital project authority. *($39,750,000)*

For an additional amount for construction projects, $10,500,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.). *(10,500,000)*

[Total, Water and Sewer Enterprise Fund, $50,250,000.]

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For an additional amount for "Lottery and charitable games enterprise fund", $764,000. *(764,000)*

[Total, enterprise funds, $51,014,000.]

GENERAL PROVISION

SEC. 201. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1988.

[Total, title II, Fiscal Year 1988 Supplemental:

[District of Columbia funds (net)	*$135,877,000.]*
[Appropriations	*169,416,000.]*
[Rescissions	*—33,539,000.]*

This Act may be cited as the "District of Columbia Appropriations Act, 1989".

Approved October 1, 1988.

LEGISLATIVE HISTORY—H.R. 4776 (S. 2562)

HOUSE REPORTS: No. 100-680 (Comm. on Appropriations); No. 100-988 (Comm. of Conference), No. 100-1010 (Comm. of Conference), and No. 100-1013 (Comm. of Conference).

SENATE REPORT No. 100-398 (Comm. on Appropriations) (S. 2562).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 9, H.R. 4776 reported in the House (H. Rept. No. 100-680).

June 23, S. 2562 reported in the Senate (S. Rept. No. 100-398).

June 28, H.R. 4776 considered and passed House. In Senate, ordered placed on the calendar.

July 11, S. 2562 indefinitely postponed in Senate. H.R. 4776 considered and passed Senate, amended.

Sept. 28, conference report filed in the House (H. Rept. No. 100-988).

Sept. 29, conference report filed in the House (H. Rept. No. 100-1010).

Sept. 30, conference report filed in the House (H. Rept. No. 100-1013). House agreed to conference report; receded and concurred in certain Senate amendments and receded and concurred with amendments in others. Senate agreed to conference report; agreed to House amendments to Senate amendments.

Grand total:		
Federal funds	$536,910,000	
District of Columbia funds (net)	*(3,341,972,000)*	
Appropriations, fiscal year 1989	*(3,206,095,000)*	
Appropriations, fiscal year 1988 supplemental (net)	*(135,877,000)*	
Appropriations	*(169,416,000)*	
Rescissions	*(—33,539,000)*	
Total, new budget (obligational) authority, District of Columbia Appropriations Act, 1989 (Federal funds)		536,910,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1989 contained in the foregoing annual appropriations act, the following additional amount is available for the District of Columbia for the fiscal year:

Permanent appropriation: Federal funds (p. 2233)	$20,000,000	
Advance appropriation for fiscal year 1989 made during previous sessions of Congress:		
100th Cong., 1st session:		
Criminal Justice Initiative (p. 216, 1987-1988 volume)	[1] *(20,000,000)*	
Subtotal, additions		$20,000,000
Grand total, District of Columbia (Federal funds)		556,910,000

[1] *Also included under "Permanent appropriations, Federal funds".*

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1989

Public Law 100-371

100th Congress, H.R. 4567

July 19, 1988

AN ACT

Making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $142,405,000, to remain available until expended: *Provided,* That $300,000 of funds appropriated in this bill for section 22 planning assistance to the States shall be used to assist the State of Nebraska in seeking solutions to water problems including investigating and resolving problems of streambank erosion and environmental concerns along the Platte and Missouri Rivers: *Provided further,* That $100,000 of funds appropriated in this bill shall be used by the Army Corps of Engineers to prepare plans and specifications to complete preconstruction activities of the Platte River bank stabilization demonstration project for a 46-mile reach of the Platte River between Hershey, Nebraska, and the boundary between Lincoln and Dawson Counties, Nebraska: *Provided further,* That not to exceed $20,500,000 shall be available for obligation or research and development activities. $142,405,000

The Secretary of the Army is directed to proceed expeditiously with the study of the project authorized as a demonstration project at Sunset Harbor, California, and submit his report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

The Secretary of the Army is directed to complete the Arkansas River and Tributaries, South Central and Southeast Areas of Oklahoma, Comprehensive Study and the Oklahoma portion of the Red River Basin, Oklahoma, Arkansas, Louisiana, and Texas, Comprehensive Study being conducted by the Tulsa District by March 31, 1989, and to include in the final report data on the economic factors that affect the feasibility of each project, indicating on a sliding scale what levels of each economic factor could make each project feasible at a future date. The economic impact plans associated with the above studies shall be conducted without the requirement of meeting the completion date specified above.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,066,735,000, of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to remain available until expended: *Provided*, That no fully allocated funding policy shall apply and that all structural portions shall conform to the Standard Project Flood level with respect to the construction of Barbourville, Kentucky, and Harlan, Kentucky (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia, and Kentucky): *Provided further*, That $500,000 of the total sum herein appropriated for the Big South Fork National River and Recreation Area, Kentucky and Tennessee, shall be allocated to the construction of infrastructure, including, but not limited to, road and sewer development, associated with the Bear Creek, Kentucky, portion of the project, such funds to remain available until expended: *Provided further*, That $200,000 of the funds appropriated in this bill shall be to carry out the provisions of section 847(b) of Public Law 99-662: *Provided further*, That the Secretary of the Army acting through the Chief of Engineers is directed to use, immediately upon enactment of this Act $8,700,000 previously appropriated in Public Law 100-202, and $9,600,000 of the total sum appropriated for design, testing, and construction in fiscal year 1989 of juvenile fish passage facilities at the Little Goose, Lower Granite, McNary, Lower Monumental, Ice Harbor, and The Dalles projects on the Columbia and Snake Rivers as directed in the report accompanying this Act; and in addition, $118,000,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project and for compliance with the directions given to the Secretary of the Army in the fiscal year 1988 Energy and Water Development Act, Public Law 100-202, regarding the construction of this project, and the Secretary is directed to continue the design of locks and dams 4 and 5 on the accelerated schedule in fiscal year 1989 in order to initiate the first phase of construction of locks and dams 4 and 5 by April 1990, and with funds provided in this title or previously appropriated to the Corps of

$1,066,735,000

118,000,000

Engineers, the Secretary further is directed to fund previously awarded and directed construction contracts and to award continuing contracts in fiscal year 1989 for construction and completion of each of the following features of the Red River Waterway: in pool 3, Fausse Revetment Downstream Extension; and in pool 4, Westdale Realignment, Hammell Revetment, Bull Revetment, and Williams Revetment Downstream Extension. None of these contracts are to be considered fully funded.

[Total, Construction, General $1,184,735,000.]

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $337,980,000, to remain available until expended: *Provided,* That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist. $337,980,000

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,370,714,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund, and of which $15,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601): *Provided,* That $200,000 of funds appropriated in this bill shall be used by the Army Corps of Engineers for operation and maintenance of existing structures and facilities of the Missouri National Recreation River, Nebraska and South Dakota: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, shall allow an entity of the State of Oklahoma that is responsible for the development of the water and natural resources of the Arkansas River and Red River basins in southeast Oklahoma to operate and occupy, at no expense to such entity of the State, the Visitors Center at Crowder Point on Lake Eufaula, Oklahoma: *Provided further,* That the State of Oklahoma signs a cost sharing agreement for the construction of the Visitors Center according to the cost sharing provisions of Public Law 99-662: *Provided further,* That not to exceed $8,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further,* That of the funds appropriated under this heading, $500,000 shall be available only for providing low water access to Lake Koocanusa, Montana, as the Secretary of the Army determines is necessary to alleviate low water impact on existing 1,370,714,000

access facilities at the Libby Dam Project administered by the Forest Service of the Department of Agriculture: *Provided further,* That funds unused for the project described in the preceding proviso shall be transferred to the Department of Agriculture for purposes of carrying out maintenance and the Department's other responsibilities with respect to that project.

GENERAL REGULATORY FUNCTIONS

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $60,427,000, to remain available until expended. $60,427,000

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended, $20,000,000, to remain available until expended. 20,000,000

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, $120,000,000, to remain available until expended. 120,000,000

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901–5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 200 for replacement only) and hire of passenger motor vehicles.

[*Total, title I, Department of Defense—Civil, new budget (obligational) authority, $3,236,261,000.*]

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $14,250,000: 14,250,000

Provided, That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for construction: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended: *Provided further,* That $800,000 of funds herein appropriated shall be used for advanced planning for the Prairie Bend Project, Nebraska: *Provided further,* That $175,000 of funds herein appropriated shall be for the South Platte Frenchman Valley Project study.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended $712,305,000, of which $174,005,000 shall be available for transfers to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $180,389,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further,* That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further,* That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further,* That of the amount herein appropriated, such amounts as may be necessary shall be available to enable the Secretary of the Interior to continue work on rehabilitating the Velarde Community Ditch Project, New Mexico, in accordance with the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) for the purposes of diverting and conveying water to irrigated project lands. The cost of the rehabilitation will be nonreimbursable and constructed features will be turned over to the appropriate entity for operation and maintenance: *Provided further,* $712,305,000

That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294): *Provided further*, That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further*, That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acre feet; and, (2) such increments of flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.): *Provided further*, That notwithstanding the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294), the James River Comprehensive Report on water resource development proposals may be submitted to Congress at a date after September 30, 1988, but not later than September 30, 1989: *Provided further*, That of the amount appropriated herein, $10,000,000 shall be available for right of way acquisition and construction of the Davis Creek Dam, North Loup Division, Nebraska (authorized by Public Law 92-514), and for preconstruction work on related facilities such as the Fullerton and Elbe canals and laterals and the Kent Diversion Dam, together with $1,000,000 appropriated in Public Law 100-202 but not allocated for the Davis Creek Dam, which shall be in addition to the amount requested by the Secretary of the Interior for continuing work on the North Loup Division, which funds shall remain available until expended, together with funds heretofore or hereafter appropriated, and with which the Secretary of the Interior is directed to award contracts for construction and completion of the Davis Creek Dam and related facilities: *Provided further*, That $2,000,000 of funds appropriated in this bill shall be available for reconstruction and rehabilitation of failing dikes of the Glendo Reservoir, North Platte Project, Nebraska and Wyoming, to restore area flood protection.

OPERATION AND MAINTENANCE

(INCLUDING TRANSFER OF FUNDS)

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $187,731,000: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the

$187,731,000

future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98–381: *Provided further,* That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable: *Provided further,* That none of the funds appropriated in this Act shall be used to execute new long-term contracts for water supply from the Central Valley project, California, prior to May 1, 1989.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a–421d), and August 6, 1956, as amended (43 U.S.C. 422a–422l), including expenses necessary for carrying out the program, $26,022,000, to remain available until expended: *Provided,* That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That during fiscal year 1989 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $27,766,000: *Provided further,* That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197). $26,022,000

27,766,000 (limitation on direct loans)

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $48,313,000, of which $1,639,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses. 48,313,000

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund. 1,000,000

WORKING CAPITAL FUND

For acquisition of computer capacity for the Administrative Systems Modernization project, $4,000,000, to remain available until expended, as authorized in section 1472 of title 43, United States Code (99 Stat. 571). 4,000,000

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391). Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 26 passenger motor vehicles for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed $500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461–467) and June 27, 1960 (16 U.S.C. 469): *Provided,* That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses", amounts provided for plan formulation and advance planning investigations under the head "General Investigations", and amounts provided for applied engineering under the head "Construction Program".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided,* That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341).

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

None of the funds made available by this or any other Act shall be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.).

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided*, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. Of the appropriations for the Central Utah project, in this or any other Act, not more than $17,000,000 of the total in any one fiscal year may be expended by the Secretary for all administrative expenses; except that this provision shall only become applicable after legislation to raise the authorization ceiling for the Colorado River Storage Project Act is approved by the Congress and signed by the President, otherwise the existing administrative expense limitation shall remain in effect: *Provided*, That the Inspector General of the Department of the Interior shall annually audit expenditures by the Bureau of Reclamation to determine compliance with this section: *Provided further*, That none of the Bureau of Reclamation's appropriations shall be used to fund the audit: *Provided further*, That the Bureau of Reclamation shall not delay or stop construction of the project due to this limitation and shall apply all the remaining appropriations to completion of this project, unless continuation of work on the Central Utah project would

cause administrative expenses attributable to the Central Utah project to be paid from funds available for other Bureau of Reclamation projects and thereby delay their construction.

[*Total, title II, Department of the Interior:*
[*New budget (obligational) authority* ..... *$993,621,000.*]
[*Limitation on direct loans* ..... *27,766,000.*]

TITLE III

DEPARTMENT OF ENERGY

Energy Supply, Research and Development Activities

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 23 for replacement only), $2,142,326,000, to remain available until expended: *Provided,* That within 180 days after the date of enactment of this Act, the Secretary of Energy shall provide the Committee on Appropriations of the Senate and House of Representatives and the Energy and Natural Resources Committee of the Senate and the Science, Space, and Technology Committee of the House of Representatives a report which contains a program for the long-term utilization of the Fast Flux Test Facility at the Hanford, Washington site. $2,142,326,000

Uranium Supply and Enrichment Activities

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 21 for replacement only), $1,133,080,000, to remain available until expended: *Provided,* That revenues received by the Department for the enrichment of uranium and estimated to total $1,276,000,000 in fiscal year 1989, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of section 3302(b) of section 484, of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1989 so as to result in a final fiscal year 1989 appropriation estimated at not more than $0. 1,133,080,000

−1,276,000,000 *(revenues)*

[*Total, Uranium Supply and Enrichment Activities (net), −$142,920,000.*]

General Science and Research Activities

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general

science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 10, of which 5 are for replacement only and one is a police-type vehicle), and one replacement fixedwing aircraft to be acquired pursuant to the Federal Property and Administrative Services Act of 1949, as amended, $922,116,000, to remain available until expended. $922,116,000

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $369,832,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) to issue obligations to the Secretary of the Treasury: *Provided*, That any proceeds resulting from the sale of assets purchased from the Nuclear Waste Fund shall be returned to the Nuclear Waste Fund: *Provided further*, That of the amount herein appropriated not to exceed $11,000,000, at an annualized rate, may be provided to the State of Nevada for the period July 1, 1988 through June 30, 1989, for the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, of which not more than $1,500,000 may be expended for socioeconomic studies and not more than $1,500,000 may be expended on transportation studies: *Provided further*, That not more than $5,000,000, at an annualized rate, may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913. 369,832,000

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities, $8,100,000,000, to remain available until expended, including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 248, of which 247 are for replacement only including 6 police-type vehicles): *Provided*, That no funds appropriated for operating expenses or construction for new production reactor capacity may be obligated until 30 days after the Secretary of Energy has presented to Congress the acquisition strategy report for new production reactor capacity, as required by the Energy and Water Appropriations Act for Fiscal Year 1988—Public Law 100-202, and has certified, with appropriate documentation, that the preferred technology, design and site selected for new production reactor capacity, best satisfies the considerations required under Public Law 100-202. 8,100,000,000

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000) $403,665,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided,* That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further,* That moneys received by the Department for miscellaneous revenues estimated to total $240,725,000 in fiscal year 1989 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1989 so as to result in a final fiscal year 1989 appropriation estimated at not more than $162,940,000. $403,665,000

−240,725,000 *(revenues)*

[*Total, Departmental Administration (net), $162,940,000.*]

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,159,000, to remain available until expended. 3,159,000

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for official reception and representation expenses in an amount not to exceed $2,500.

During fiscal year 1989, no new direct loan obligations may be made.

Without fiscal year limitation, the Bonneville Power Administration continues to be authorized to incur obligations for authorized purposes and may do so in excess of borrowing authority and cash in the Bonneville Power Administration Fund.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $36,267,000, to remain available until expended. 36,267,000

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses

connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $15,389,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $4,411,000 in collections from the Department of Defense from power purchases, not to exceed $2,430,000 in collections from various Oklahoma companies from power purchases, and not to exceed $1,000,000 in collections from non-Federal entities for construction projects in fiscal year 1989, to remain available until expended. $15,389,000

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, the purchase of passenger motor vehicles (not to exceed 5 for replacement only), $270,928,000, to remain available until expended, of which $250,142,000, shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $2,485,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended: *Provided*, That, concurrent with the enactment of Public Law 99-360, purchase, operation, and maintenance of 1 replacement helicopter is authorized from the Colorado River Basins Power Marketing Fund. 270,928,000

[*Total, Power Marketing Administrations, $325,743,000.*]

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $2,000); $108,760,000, of which $5,000,000 shall remain available until expended and be available only for contractual activities: *Provided*, That hereafter and notwithstanding any other provision of law, not to exceed $108,760,000 of revenues from licensing fees, inspection services, and other services and collections in fiscal year 1989, may be retained and used for necessary expenses in this account, and may remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1989, so as to result in a final fiscal year 1989 appropriation estimated at not more than $0. 108,760,000

−108,760,000
(revenues)

GEOTHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $75,000, to remain available until expended: *Provided*, That the indebtedness 75,000

guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000.

$500,000,000 (limitation on guaranteed loans)

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 304. No funds appropriated or made available under this or any other Act shall be used by the executive branch for studies, reviews, to solicit proposals, to consider unsolicited proposals, undertake any initiatives or draft any proposals to transfer out of Federal ownership, management or control in whole or in part, the facilities, assets, and functions of the uranium supply and enrichment program, including inventories, until such activities have been specifically authorized in accordance with terms and conditions established by an Act of Congress hereafter enacted: *Provided*, That this provision shall not apply to the authority granted to the Department of Energy under section 161g of the Atomic Energy Act of 1954, as amended, under which it may sell, lease, grant, and dispose of property in furtherance of Atomic Energy Act activities or to the authority of the Administrator of the General Services Administration pursuant to the Federal Property and Administrative Service Act of 1944 to sell or otherwise dispose of surplus property.

SEC. 305. (a) During fiscal year 1989, the Department of Energy, in the case of any State with unemployment in excess of 10 percent as determined by the Bureau of Labor Statistics, shall give priority in approving plans for the use of funds available to such State under the Agreement approved on July 7, 1986 In Re: The Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378.

(b) Any plan described in subsection (a) submitted in fiscal year 1989 shall be deemed approved by the Department of Energy if the Department fails to act on the plan within 45 calendar days after such submittal and if the Governor or a designated State official certifies in writing that the use of such funds provided in such plan is consistent with the applicable terms of such Agreement.

(c) It is the intent of Congress that the purpose of this provision is to help such States gain prompt approval of such plans for the purposes proposed by such States so long as such plans are consistent with the terms and conditions of such Agreement.

[Total, title III, Department of Energy:
[New budget (obligational) authority ..... $11,880,112,000.]
[Limitation on guaranteed loans ..... 500,000,000.]

TITLE IV

INDEPENDENT AGENCIES

Appalachian Regional Commission

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, except expenses authorized by section 105 of said Act, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $110,700,000. Amounts previously made available for Appalachian Regional Development programs shall be transferred to and made part of this appropriation. $110,700,000

Delaware River Basin Commission

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $205,000. 205,000

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $263,000. 263,000

[Total, Delaware River Basin Commission, $468,000.]

Interstate Commission on the Potomac River Basin

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the

conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $379,000. $379,000

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $420,000,000, to remain available until expended: *Provided,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs including criminal history checks under section 149 of the Atomic Energy Act, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $189,000,000 in fiscal year 1989 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1989 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1989 appropriation estimated at not more than $231,000,000. 420,000,000

−189,000,000 *(revenues)*

[*Total, Nuclear Regulatory Commission (net), $231,000,000.*]

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $192,000. 192,000

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expense of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $262,000. 262,000

[*Total, Susquehanna River Basin Commission, $454,000.*]

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $103,000,000, to remain available until expended: *Provided,* That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code: *Provided further,* That the official of the Tennessee Valley Authority referred to as the "inspector general of the Tennessee Valley Authority" is authorized, during the fiscal year ending September 30, 1989, to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and other documentary evidence necessary in the performance of the audit and investigation functions of that official, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided further,* That procedures other than subpoenas shall be used by the inspector general to obtain documents and evidence from Federal agencies. $103,000,000

[*Total, title IV, Independent Agencies, new budget (obligational) authority (net), $446,001,000.*]

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act for Power Marketing Administrations or the Tennessee Valley Authority, and

none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund or the Tennessee Valley Authority Fund, may be used to pay the costs of procuring extra high voltage (EHV) power equipment unless contract awards are made for EHV equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most competitive foreign bidder: *Provided,* That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further,* That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further,* That this section shall not apply to procurement of domestic end product as defined in 48 C.F.R. sec. 25.101: *Provided further,* That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

IMPLEMENTATION OF BUY AMERICAN ACT WITH RESPECT TO CERTAIN WATER RESOURCE PROJECTS

SEC. 508. (a) GENERAL RULE.—For purposes of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a–10c), commonly known as the Buy American Act, a cofferdam or any other temporary structure to be constructed by the Secretary of the Army, acting through the Chief of Engineers, shall be treated in the same manner as a permanent dam constructed by the Secretary of the Army.

(b) APPLICABILITY.—Subsection (a) shall only apply to contracts entered into after the date of the enactment of this Act.

SEC. 509. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1989".

Approved July 19, 1988.

LEGISLATIVE HISTORY—H.R. 4567

HOUSE REPORTS: No. 100-618 (Comm. on Appropriations) and No. 100-724 (Comm. of Conference).
SENATE REPORT No. 100-381 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 11, reported in the House.
May 17, considered and passed House.
June 9, reported in the Senate.
June 14 and 15, considered and passed Senate, amended.
June 22, conference report filed in the House.
June 30, House agreed to conference report; receded from its disagreement and concurred in certain Senate amendments and in others with amendments.
July 6 and 7, Senate agreed to conference report and concurred in House amendments.

Grand total:		
New budget (obligational) authority	$16,555,995,000	
Limitation on direct loans	*(27,766,000)*	
Limitation on guaranteed loans	*(500,000,000)*	
Total, new budget (obligational) authority, Energy and Water Development Appropriations Act, 1989		$16,555,995,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1989 contained in the foregoing annual appropriations act, the following additional amounts are available for the Departments of Energy and Defense—Civil functions for the fiscal year:

Permanent appropriations:		
Federal funds (pp. 2224-2225)	$11,323,959,000	
Trust funds (pp. 2242-2243)	35,701,372,000	
Advance appropriation for fiscal year 1989 made during previous session of Congress:		
100th Cong., 1st session:		
Clean coal technology (p. 355, 1987-1988 volume)	[1]*(525,000,000)*	
Department of Housing and Urban Development—Indpendent Agencies Appropriations Act, 1989:		
Cemeterial expenses, Army (pp. 214-215)	13,195,000	
Department of the Interior and Related Agencies Appropriations Act, 1989:		
Department of Energy (pp. 266-270)	1,633,971,000	
Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989:		
Soldiers' and Airmen's Home (p. 316)	52,068,000	
Subtotal, additions		48,724,565,000
Deduct amounts transferred to the Department of the Interior and General Government totals:		
Department of the Interior:		
Bureau of Reclamation (pp. 138-144)	$993,621,000	
General Government:		
Appalachian Regional Commission (p. 149)	110,700,000	
Delaware River Basin Commission (p. 149)	468,000	
Interstate Commission on the Potomac River Basin (pp. 149-150)	379,000	
Nuclear Regulatory Commission (p. 150)	231,000,000	
Susquehanna River Basin Commission (p. 150)	454,000	
Tennessee Valley Authority (p. 151)	103,000,000	
Subtotal, deductions		−1,439,622,000
Grand total, Departments of Energy and Defense—Civil functions		63,840,938,000

[1] Also included under "Permanent appropriations, Federal funds".

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1989

Public Law 100-461

100th Congress, H.R. 4637

October 1, 1988

AN ACT

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTIONS FOR ARREARAGES

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $43,333,334, for the United States contribution to the replenishments, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

[1] $43,333,334 *(arrearage)*

ENROLLMENT ERRATA

Pursuant to the provisions of H.J. Res. 665, authorizing the hand enrollment of appropriations bills for fiscal year 1989, and authorizing the subsequent, post-enactment of preparation of printed enrollment of those bills, any changes made in this printed version will be footnoted.

NOTE.—Footnotes in italics have been added by the editor of this document and are not related to enrollment errata mentioned above.

[1] *Included in total for International Development Association and the total to the World Bank Group (see p. 157, this volume).*

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $4,891,528, for the United States share of the increase in subscriptions to capital stock, to remain available until expended. [1] $4,891,528 *(arrearage)*

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $100,000,000, to remain available until expended: *Provided,* That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. [2] 100,000,000 *(arrearage)*

ANNUAL CONTRIBUTIONS TO INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock, for the General Capital Increase, $50,000,795, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. 50,000,795 *(paid-in capital)*

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $2,292,972,540. *2,292,972,540 (limitation on callable capital)*

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $951,666,666, for the United States contribution to the replenishment, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, 951,666,666

[1] *Presented on the table VIII (see p. 2305, volume 2) out of sequence, after "Contribution to the International Development Association" and included in the total to the World Bank Group.*

[2] *Included in total for the Asian Development Fund; not part of total to the World Bank Group (see p. 157, this volume).*

United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

[*Total, contribution to the International Development Association,* [1] *$995,000,000.*]

[*Total, contribution to the World Bank Group:*

[*New budget (obligational) authority* ..... *$1,049,892,323.*]

[*Limitation on callable capital* ..... *2,292,972,540.*]

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $52,392,036, to remain available until expended: *Provided,* That no such contribution may be made while the United States Director of the Asian Development Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. $52,392,036

[*Total, contribution to the Asian Development Fund,* [2] *$152,392,036.*]

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $105,000,000, for the United States contribution to the fifth replenishment of the African Development Fund, to remain available until expended. 105,000,000

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $8,999,371, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. [3] 7,345,371 *(paid-in capital)*

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $135,062,946. *135,062,946 (limitation on callable capital)*

[*Total, contribution to the African Development Bank:*

[*New budget (obligational) authority* ..... *$7,345,371.*]

[*Limitation on callable capital* ..... *135,062,946.*]

[*Total, contribution to International Financial Institutions:*

[*New budget (obligational) authority* ..... *$1,314,629,730.*]

[*Limitation on callable capital* ..... *2,428,035,486.*]

[1] *Includes $43,333,334 arrearage (see p. 155, this volume).*

[2] *Includes $100,000,000 arrearage (see p. 156, this volume).*

[3] *As amended by Sec. 589 of this bill (see p. 204, this volume).*

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $226,115,000, of which $2,650,334 shall be made available for the Organization of American States which amount shall be in addition to funds earmarked elsewhere under this heading for that organization: *Provided,* That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further,* That the total amount of funds appropriated under this heading shall be made available only as follows: $111,000,000 for the United Nations Development Program; $60,400,000 for the United Nations Children's Fund of which $3,000,000 shall be made available to UNICEF as funds in trust for the activities of Childhope or similar organizations to help homeless or street children: *Provided further,* That the funds made available for UNICEF (less amounts withheld consistent with section 307 of the Foreign Assistance Act of 1961 and section 526 of this Act) shall be obligated and expended no later than 30 days after the date of enactment of this Act: *Provided further,* That if the previous proviso has not been complied with, none of the funds appropriated by this Act remaining unobligated or unexpended at that time shall be obligated or expended until funds appropriated under this heading are made available to UNICEF (less amounts withheld pursuant to the previous proviso); $980,000 for the World Food Program; $1,500,000 for the United Nations Capital Development Fund; $800,000 for the United Nations Voluntary Fund for the Decade for Women; $200,000 for the United Nations International Research and Training Institute for the Advancement of Women; $2,000,000 for the International Convention and Scientific Organization Contributions; $1,960,000 for the World Meteorological Organization Voluntary Cooperation Program; $22,000,000 for the International Atomic Energy Agency; $9,500,000 for the United Nations Environment Program; $800,000 for the United Nations Educational and Training Program for Southern Africa; $500,000 for the United Nations Trust Fund for South Africa; $110,000 for the United Nations Institute for Namibia; $650,000 for the Convention on International Trade in Endangered Species; $220,000 for the World Heritage Fund; $100,000 for the United Nations Voluntary Fund for Victims of Torture; $245,000 for the United Nations Fellowship Program; $400,000 for the United Nations Center on Human Settlements; $250,000 for the UNIDO Investment Promotion Service; $7,349,666 for the Organization of American States; and $2,500,000 for the International Fund for Agricultural Development: *Provided further,* That the Department of State shall provide a report to the Committees on Appropriations, not later than June 1, 1989, analyzing the effectiveness of the United Nations Environment Program (UNEP) and detailing how UNEP has spent or intends to spend the funds appropriated under the heading. The State Department shall make this report immediately available to the Appropriations Committees: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency. $226,115,000

[*Total, title I, Multilateral Economic Assistance:*
[*New budget (obligational) authority* ..... *$1,540,744,730.*]
[*Limitation on callable capital* ..... *2,428,035,486.*]

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1989, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 103, $493,715,000: *Provided,* That up to $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: *Provided further,* That not less than $8,000,000 shall be provided for the Vitamin A Deficiency Program: *Provided further,* That, notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this heading shall be made available, and remain available until expended, for agricultural activities in Poland which are managed by the Polish Catholic Church or other nongovernmental organizations. $493,715,000

POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $197,940,000: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act. 197,940,000

HEALTH, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(c), $122,459,000: *Provided,* That of this amount $2,500,000 shall be made available for the River Blindness Program of the World Health Organization. 122,459,000

INTERNATIONAL AIDS PREVENTION AND CONTROL PROGRAM

For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $40,000,000, which shall be made available only for activities relating to research on, and the 40,000,000

treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: *Provided,* That of the funds made available under this heading $25,500,000 shall be provided directly to the World Health Organization for its use in financing the Global Program on AIDS, including activities implemented by the Pan American Health Organization.

CHILD SURVIVAL FUND

For necessary expenses to carry out the provisions of section 104(c)(2), $71,000,000. $71,000,000

EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 105, $129,541,000: *Provided,* That $1,500,000 of the funds appropriated under this heading shall be made available for the Caribbean Law Institute: *Provided further,* That not less than $64,770,500 of the funds appropriated under this heading and under the heading "Sub-Saharan Africa, Development Assistance" shall be available only for programs in basic primary and secondary education: *Provided further,* That in fiscal year 1989, the Agency for International Development shall initiate two new bilateral projects in basic primary and secondary education, at least one of which shall be initiated in countries in Sub-Saharan Africa: *Provided further,* That in each of fiscal years 1990 and 1991, such agency shall initiate three new bilateral projects in basic primary and secondary education, at least two of which in each fiscal year shall be initiated in Sub-Saharan Africa: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for the International Student Exchange Program: *Provided further,* That not less than $1,200,000 of the funds appropriated under this heading shall be made available for the Leadership Center for the Americas program. 129,541,000

PRIVATE SECTOR, ENVIRONMENT, AND ENERGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $120,709,000: *Provided,* That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: *Provided further,* That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project. 120,709,000

SCIENCE AND TECHNOLOGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $8,662,270. 8,662,270

MICRO-ENTERPRISE DEVELOPMENT

Of the funds appropriated by this Act to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $75,000,000 shall be made available for programs of credit and other assistance for micro-enterprises in developing countries: *Provided,* That local currencies which accrue as a result of assistance provided to carry out the provisions of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 may be used for assistance for micro-enterprises: *Provided further,* That such local currencies which are used for this purpose shall be in lieu of funds earmarked under this heading and shall

reduce the amount earmarked for assistance for micro-enterprises by an equal amount.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 and section 121 of the Foreign Assistance Act of 1961, $500,000,000, for assistance only for Sub-Saharan Africa, which shall be in addition to any amounts otherwise made available for such purposes: *Provided,* That any of the funds which are appropriated under this heading may be used for assistance for Sub-Saharan Africa to carry out any economic development assistance activities under the Foreign Assistance Act of 1961: *Provided further,* That assistance made available under this heading shall be used to help the poor majority in Sub-Saharan Africa through a process of long-term development and economic growth that is equitable, participatory, environmentally sustainable, and self-reliant: *Provided further,* That these objectives may, in part, be achieved through the integration of women in the development process, appropriate consultation with private voluntary organizations, African and other organizations with a local perspective on the development process, and inclusion of the perspectives and participation of those affected by the provision of assistance: *Provided further,* That assistance made available under this heading shall be provided in accordance with the policies contained in section 102 of the Foreign Assistance Act of 1961: *Provided further,* That assistance made available under this heading should be provided, when consistent with the objectives of such assistance, through African, United States and other private and voluntary organizations which have demonstrated effectiveness in the promotion of local grassroots activities on behalf of long-term development in Sub-Saharan Africa: *Provided further,* That assistance made available under this heading should be used to help overcome shorter-term constraints to long-term development; to promote reform of sectoral economic policies to support the critical sector priorities of agricultural production and natural resources, health, voluntary family planning services, education, and income generating opportunities; to bring about appropriate sectoral restructuring of the Sub-Saharan African economies; to support reform in public administration and finances and to establish a favorable environment for individual enterprise and self-sustaining development: *Provided further,* That assisted policy reforms should take into account the need to protect vulnerable groups: *Provided further,* That assistance made available under this heading shall be used to increase agricultural production in ways which protect and restore the natural resource base, especially food production; to maintain and improve basic transportation and communication networks; to maintain and restore the renewable natural resource base in ways which increase agricultural production; to improve health conditions with special emphasis on meeting the health needs of mothers and children, including the establishment of self-sustaining primary health care systems that give priority to preventive care; to provide increased access to voluntary family planning services; to improve basic literacy and mathematics especially to those outside the formal educational system and to improve primary education; and to develop income-generating opportunities for the unemployed and underemployed in urban and rural areas: *Provided further,* That the Administrator of the Agency for International Development should target the equivalent of 10 percent of the funds appropriated under this heading for each of the following: (1) maintaining and restoring the renewable natural resource base in ways which increase agricultural production, including components of agriculture activities which are consistent with

$500,000,000

this objective, (2) health activities, and (3) voluntary family planning: *Provided further,* That local currencies generated by the sale of imports or foreign exchange by the government of a country in Sub-Saharan Africa from funds appropriated under this heading shall be deposited in a special account established by that government: *Provided further,* That these local currencies shall be available only for use, in accordance with an agreement with the United States, for development activities which are consistent with the policy directions of section 102 of the Foreign Assistance Act of 1961 and for necessary administrative requirements of the United States Government: *Provided further,* That in order to carry out the purposes of this heading, section 604(a) of the Foreign Assistance Act of 1961, and similar provisions of law, shall not apply with respect to the implementation of assistance activities consistent with the purposes of this heading: *Provided further,* That the funds made available under this heading shall be provided only on a grant basis.

SOUTHERN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $50,000,000, which shall be made available, without regard to section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961, only to assist sector projects supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the nine member states forming that regional institution: *Provided,* That this amount shall be made available for one or more of the following sectors: transportation; manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives): *Provided further,* That amounts made available under this heading shall be in addition to any amounts otherwise made available for such purposes and shall be in addition to amounts made available for Africa under the heading "Sub-Saharan Africa, Development Assistance": *Provided further,* That none of the funds appropriated under this heading may be made available for activities in Angola: *Provided further,* That none of the funds appropriated under this heading may be made available for activities in Mozambique unless the President certifies that it is in the national interest of the United States to do so. $50,000,000

ASSISTANCE FOR JAMAICA

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $35,000,000 shall be made available, notwithstanding any other provision of law, for relief, rehabilitation and reconstruction assistance, which amount shall be in addition to funds otherwise made available for Jamaica to carry out the provisions of part I of such Act.

ASSISTANCE FOR VICTIMS OF WAR

Of the aggregate of the funds appropriated by this Act to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961, up to $5,000,000 may be made available, notwithstanding any other provision of law, for assistance for the provision of prostheses for civilians who have been injured as a result of civil strife and warfare.

ASSISTANCE FOR DISPLACED CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $1,500,000 shall be made available for programs and activities for children who have become orphans as a result of the effects of drought, civil strife, and other natural and man-made disasters: *Provided,* That assistance under this heading shall be made available in accordance with the policies and general authorities contained in section 491 of the Foreign Assistance Act of 1961.

WOMEN IN DEVELOPMENT

In recognition that the full participation of women in, and the full contribution of women to, the development process are essential to achieving economic growth, a higher quality of life, and sustainable development in developing countries, not less than $5,000,000 of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, in addition to funds otherwise available for such purposes, shall be used to encourage and promote the participation and integration of women as equal partners in the development process in developing countries, of which not less than $3,000,000 shall be made available as matching funds to support the activities of the Agency for International Development's field missions to integrate women into their programs: *Provided,* That the Agency for International Development shall seek to ensure that country strategies, projects, and programs are designed so that the percentage of women participants will be demonstrably increased.

PHILIPPINES, DEVELOPMENT ASSISTANCE

Of the aggregate of the funds appropriated by this Act to carry out sections 103 through 106 of the Foreign Assistance Act of 1961, not less than $40,000,000 shall be made available only for the Philippines for project and sector assistance primarily in support of the Government of the Philippines' efforts to promote economic recovery and attain sustained growth through increased rural productivity in both farm and off-farm enterprises, and other activities consistent with the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961: *Provided,* That of the funds made available for the Philippines under section 103 of the Foreign Assistance Act of 1961, as amended, not less than $1,000,000 shall be made available to fund technical assistance to strengthen nonprofit private organizations and cooperatives in conjunction, where possible, with projects using local currencies generated by sale of Public Law 480 and section 416 commodities.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

PRIVATE SECTOR REVOLVING FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, not to exceed $9,000,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year 1989, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $12,000,000. *$9,000,000 (by transfer)*

During fiscal year 1989, total commitments to guarantee loans shall not exceed $25,000,000 of contingent liability for loan principal. *12,000,000 (limitation on direct loans)*

[*Total, development assistance,* [2] *$1,746,526,270.*] [1] *50,000,000 (limitation on guaranteed loans)*

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, $35,000,000. 35,000,000

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $25,000,000, to remain available until expended: *Provided,* That not less the $500,000 of the funds appropriated under this heading may be made available for assistance for children who have become orphans as a result of natural disasters. 25,000,000

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $40,532,000. 40,532,000

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $414,000,000: *Provided,* That not more than $15,000,000 of this amount shall be for Foreign Affairs Administrative Support: *Provided further,* That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1989 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, colleges and universities having a student body in which more than 40 percent of the students are Hispanic Americans, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this proviso, economically and socially disadvantaged individuals shall be deemed to include women. 414,000,000

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $28,500,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding 28,500,000

[1] *Budgetary scoring rules require scoring face value of loans at $50,000,000.*

[2] *Includes $12,500,000 deobligate/reobligate from Sec. 515 (see pp. 177–178, this volume).*

sections 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided,* That up to three percent of the amount made available under the heading "Operating Expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this heading: *Provided further,* That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to a location within the United States without the express approval of the Inspector General: *Provided further,* That the total number of positions authorized for the Office of Inspector General in Washington and overseas shall be not less than 240 at September 30, 1989: *Provided further,* That section 103(b) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 is amended by (1) striking out subsection (b)(3); (2) inserting, in subsection (b)(2), "or regional inspector general offices under the jurisdiction of the inspector General, Agency for International Development" after "commander"; and (3) striking out "; and" at the end of subsection (b)(2) and inserting in lieu thereof a period.

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

During the fiscal year 1989, total commitments to guarantee loans shall not exceed $125,000,000 of contingent liability for loan principal: *Provided,* That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject only to the availability of qualified applicants for such guarantees: *Provided further,* That pursuant to section 223(e)(2) of the Foreign Assistance Act of 1961 borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1989.

$125,000,000 (limitation on guaranteed loans)

22,000,000 *(borrowing authority, indefinite)*

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $3,258,500,000: *Provided,* That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1988, whichever is later: *Provided further,* That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not more than $115,000,000 may be provided as a cash transfer with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further,* That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further,* That of the funds appropriated under this heading not less than $215,000,000 shall be available for Pakistan: *Provided further,* That not less than $124,000,000 of the funds appropriated under this heading shall be available for the Philippines: *Provided further,*

3,258,500,000

That not less than $2,500,000 of the funds appropriated under this heading shall be available for Thailand: *Provided further,* That not less than $20,000,000 of the funds appropriated under this heading shall be available for Morocco: *Provided further,* That not less than $11,250,000 of the funds appropriated under this heading shall be available for Tunisia: *Provided further,* That not less than $60,000,000 of the funds appropriated under this heading shall be available for Turkey: *Provided further,* That not less than $50,000,000 of the funds appropriated under this heading shall be available for Portugal: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be available for Cyprus: *Provided further,* That of the funds appropriated under this heading up to $35,000,000 but not less than $10,000,000 shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): *Provided further,* That of the funds appropriated under this heading $185,000,000 only shall be available for El Salvador, $80,000,000 only shall be available for Guatemala, $90,000,000 only shall be available for Costa Rica, and not less than $85,000,000 shall be available for Honduras: *Provided further,* That of the funds provided under this heading for Central American countries, not less than $5,000,000 shall be available only to develop energy self-sufficiency, to identify and utilize indigenous resources to improve economic development, and to reduce reliance on imported energy: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Jordan, of which not less than $15,000,000 is for programs in Jordan: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for the West Bank and Gaza Program through the Asia and Near East regional program: *Provided further,* That of the funds appropriated under this heading, not less than $85,750,000 shall be available for Sub-Saharan Africa: *Provided further,* That notwithstanding section 660 of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this heading may be made available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further,* That a report of the investigation shall be provided to the Congress: *Provided further,* That $20,000,000 of the funds appropriated under this heading shall be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961: *Provided further,* That if funds made available under this heading are provided to a foreign country as cash transfer assistance, that country shall be required to maintain these funds in a separate account and not commingle them with any other funds: *Provided further,* That such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98-1159): *Provided further,* That all local currencies that may be generated with such funds provided as a cash transfer shall be deposited in a special account to be used in accordance with section 609 of the Foreign Assistance Act of 1961: *Provided further,* That at least 15 days prior to obligating any such cash transfer assistance to a foreign country under this heading, the President shall submit a notification to the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, which shall include a detailed description of how the funds proposed to be made available will be

used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by the cash transfer assistance): *Provided further,* That not more than $5,000,000 of the funds made available under this heading may be available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $5,000,000 and so notifies the Committees on Appropriations through the regular notification procedures: *Provided further,* That notwithstanding any other provision of law, none of the funds appropriated under this heading may be used for tied aid credits without the prior approval of the Administrator of the Agency for International Development: *Provided further,* That, except as provided by this Act, none of the funds appropriated under this heading by this Act or the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, shall be made available for tied credits in accordance with any provision of law enacted after May 19, 1988: *Provided further,* That $2,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, only for the independent Polish trade union "Solidarity" of which $1,000,000 is to support its Social Fund project, and $1,000,000 is to support Solidarity through the AFL-CIO's Free Trade Union Institute to promote democratic activities in Poland: *Provided further,* That not to exceed $2,000,000 of the funds appropriated under this heading shall be made available notwithstanding any other provision of law to the National Endowment for Democracy for the promotion of democracy in Nicaragua: *Provided further,* That these funds are to be administered consistent with the Agreement between the Government of Nicaragua and the Nicaraguan Resistance signed March 23, 1988 at Sapoa, Nicaragua ("Sapoa Agreement") and the Guatemala Peace Accords of August 7, 1987: *Provided further,* That such assistance (1) shall be provided to internal groups that have renounced violence and support a negotiated settlement to the conflict in Nicaragua, including independent elements of the press, independent labor unions, independent business groups, and independent human rights groups, and (2) may not be provided to any group that is affiliated with or supportive of any armed opposition group: *Provided further,* That the manner in which these funds are used shall not be inconsistent with the Sapoa Agreement, as its terms are applied and monitored for acceptability by the Verification Commission established by that Agreement: *Provided further,* That $1,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, for the provision of medical supplies and hospital equipment for Poland through private and voluntary organizations, including the expenses of purchasing, transporting, and distributing such supplies and equipment: *Provided further,* That funds made available under this heading shall remain available until September 30, 1990.

[*Total, Agency for International Development,* [1] *$5,570,058,270.*]

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $8,000,000: *Provided,* That, when, with the permission of the Foundation, funds made available to a grantee under this heading are invested pending disbursement, the $8,000,000

[1] *Includes $12,500,000 deobligate/reobligate from Sec. 515 (see pp. 177-178, this volume).*

resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purpose for which the grant was made. This provision applies with respect to both interest earned before and interest earned after the enactment of this provision: *Provided further,* That section 505(a)(1) of the International Security and Development Cooperation Act of 1980 is amended by inserting "(including public international organizations)" after "public group".

INTER-AMERICAN FOUNDATION

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $16,600,000. $16,600,000

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1989 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $23,000,000. *23,000,000 (limitation on direct loans)*

During the fiscal year 1989, total commitments to guarantee loans shall not exceed $200,000,000 of contingent liability for loan principal.

Except as provided in this Act, no provision of any other Act not enacted into law by May 19, 1988, shall be construed to require the exercise of authority to provide direct loans or to make commitments to guarantee loans contrary to the limitations contained under this heading. [1] *175,000,000 (limitation on guaranteed loans)*

[*Total, Funds Appropriated to the President,* [2] *$5,594,658,270.*]

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $153,500,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions. 153,500,000

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $101,000,000: *Provided,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for narcotics interdiction and con- 101,000,000

[1] *As amended by Sec. 589 of this bill (see p. 204, this volume).*
[2] *Includes $12,500,000 deobligate/reobligate from Sec. 515 (see pp. 177–178, this volume).*

trol programs for Bolivia: *Provided further,* That in addition to amounts made available pursuant to the previous proviso, not less than $7,000,000 of the funds appropriated under this heading shall be available for Latin America regional programs: *Provided further,* That in carrying out the provisions of section 481, increased emphasis should be placed on (1) further intensifying United States efforts in the eradication and interdiction of illicit narcotics, and (2) seeking international cooperation on narcotics enforcement matters such as in the areas of extradition treaties, mutual legal assistance to combat money laundering, sharing of evidence, and other initiatives for cooperative narcotics enforcement efforts.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $361,950,000: *Provided,* $361,950,000
That not less than $28,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further,* That funds appropriated under this heading shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further,* That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further,* That of the funds appropriated under this heading not less than $140,000,000 shall be made available for the refugee admissions program, including AIDS screening, of which (1) not less than $46,000,000 shall be made available for first asylum refugees from East Asia and, (2) not less than $15,000,000 shall be available for costs of the expedited resettlement of Vietnamese Amerasians and their family members eligible for refugee benefits: *Provided further,* That of the funds appropriated under this heading not less than $20,000,000 shall be made available to the United Nations High Commissioner for Refugees for assistance for Afghan refugees: *Provided further,* That of the funds appropriated under this heading not less than $1,500,000 shall be made available for a Thailand-Cambodia border refugee protection program: *Provided further,* That of the funds appropriated under this heading not less than $1,500,000 shall be made available for the anti-piracy program, none of which funds may be used by any government to deny asylum to individuals seeking asylum: *Provided further,* That of the funds appropriated under this heading not less than $1,500,000 shall be made available for a Thailand border refugee education program: *Provided further,* That the provisions of subsection (c) of section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as contained in section 101(e) of Public Law 100-202, shall apply to an individual who (1) departs from Vietnam after the date of the enactment of this Act and before the end of the two-year period described in subsection (a)(1)(B) of such section, and (2) is described in subsection (b) of such section, but who is issued an immigrant visa under section 201(b) or 203(a) of the Immigration and Nationality Act (rather than under subsection (a) of such section), or would be described in subsection (b) of such section if such section also applied to principal aliens who were citizens of the

United States (rather than merely to aliens): *Provided further,* That not more than $8,000,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $50,000,000, to remain available until expended: *Provided,* That of the funds appropriated under this heading not less than $23,000,000 shall be made available only for Afghan refugees to be administered by the cross-border humanitarian assistance program: *Provided further,* That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose: *Provided further,* That funds appropriated under this heading shall be available for obligation and expenditure for Afghan refugees only after funds appropriated or otherwise earmarked for assistance for the Afghan people under section 537 of this Act and under the heading "Migration and Refugee Assistance" have been obligated. $50,000,000

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $9,840,000. 9,840,000

[Total, Department of State, $522,790,000.]

[Total, title II, Bilateral Economic Assistance:

[New budget (obligational) authority	[1] *$6,270,948,270.]*
[Definite	*6,236,448,270.]*
[Indefinite	*22,000,000.]*
[Reappropriation	[1] *12,500,000.]*
[By transfer	*9,000,000.]*
[Limitation on direct loans	*35,000,000.]*
[Limitation on guaranteed loans	*350,000,000.]*

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $467,000,000: *Provided,* That of the funds appropriated under this heading not less than $125,000,000 shall be made available only for the Philippines: *Provided further,* That not less than $9,000,000 shall be available for non-lethal military assistance for Guatemala, of which not less than $2,000,000 shall be available only for civic action programs and for the construction of military barracks: *Provided further,* That not less than $15,000,000 shall be available for Kenya: *Provided further,* 467,000,000

[1] *Deobligate/reobligate amount estimated from Sec. 515 (see pp. 177-178, this volume).*

That if any of the funds appropriated under this heading are made available for Turkey, then not less than $30,000,000 of such funds shall be available for Greece: *Provided further,* That of the funds appropriated under this heading not more than $40,000,000 shall be used for general costs of administering the Military Assistance program: *Provided further,* That any material assistance provided with funds appropriated under this heading for Haiti shall be limited to non-lethal items such as transportation and communications equipment and uniforms: *Provided further,* That funds made available under this heading for Haiti shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the proviso under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, prohibiting the use of military assistance funds after September 30, 1989, for the purposes of section 503(a)(3) of the Foreign Assistance Act of 1961, is repealed: *Provided further,* That any military assistance funds appropriated by this Act that have not been committed for the payment of any sale under the Arms Export Control Act during the period ending at the end of the second fiscal year after the fiscal year for which such funds were appropriated shall not be committed for such purpose thereafter unless the Committees on Appropriations are given a fifteen-day prior notification of the amount of funds involved, the reasons why no commitment was made thereof, and the proposed sales to be financed with such funds: *Provided further,* That military assistance funds appropriated by this or any other Act that have been expended into the account designated in section 503(a)(3) of the Foreign Assistance Act of 1961 to finance particular sales shall be available, subject to all applicable reprogramming provisions, to finance other sales in the event of sales cancellations, reductions, excess funds at case closeout, or other reasons relating to the implementation of sales programs: *Provided further,* That the Committees on Appropriations shall be furnished on March 1 of each year a complete report of the status of military assistance funds appropriated by this or any future Act committed for the payment of any sales under the Arms Export Control Act as regards the individual sale, item description, and estimated sales price.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $47,400,000: *Provided,* That none of the funds appropriated under this heading shall be made available for grant financed military education and training for any country whose annual per capita GNP exceeds $2,349 unless that country agrees to fund from its own resources the transportation cost and living allowances of its students. $47,400,000

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,862,750,000: *Provided,* That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, not less than $1,300,000,000 shall be available for grants only for Egypt, not less than $230,000,000 shall be available for grants only for Pakistan, not less than $52,000,000 shall be available for grants only for Morocco, and not less than $30,000,000 shall be available for grants only for Tunisia: *Provided further,* That 3,862,750,000

to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $400,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That grants shall be provided with the funds appropriated by this paragraph notwithstanding any requirement in section 23 of the Arms Export Control Act for repayment and shall be implemented by grant documents which do not include a requirement to repay the United States Government with respect to any funds provided under this paragraph.

For expenses necessary for loans to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $410,000,000: *Provided,* That any funds made available by this paragraph except as otherwise specified, may be made available at concessional rates of interest: *Provided further,* That the concessional rate of interest on foreign military credit sales loans shall be not less than 5 percent per year: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures of the Committees on Appropriations: *Provided further,* That during fiscal year 1989, gross obligations for the principal amount of direct loans under this heading, exclusive of loan guarantee defaults, shall not exceed $410,000,000. $410,000,000

Of the funds appropriated under both the "Military Assistance" heading and this heading $500,000,000 only shall be available for Turkey and $350,000,000 only shall be available for Greece: *Provided,* That funds previously obligated for the Philippines under the heading "Foreign Military Credit Sales" but uncommitted on the date of enactment of this Act shall be used only to finance sales made under the Arms Export Control Act: *Provided further,* That of the funds appropriated under this heading, not less than $409,750,000 shall be available only for use in financing the procurement of defense articles, defense services, or design and construction services that are sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further,* That any reference in title V of this Act to "Foreign Military Credit Sales" shall be deemed to be a reference to grants and loans pursuant to the Foreign Military Finance Program under this heading.

[*Total, Foreign Military Financing Program, $4,272,750,000.*]

FOREIGN MILITARY SALES DEBT REFORM

Funds made available by the Foreign Operations, Export Financing and Related Programs, Appropriations Act, 1988, for obligation and expenditure after October 1, 1988, subject to a Presidential budget request, under the heading "Foreign Military Sales Debt Reform", subsection (b) "Interest Rate Reduction" shall be available, subject to the same conditions and provisos, only after October 1, 1989.

GUARANTY RESERVE FUND

If during fiscal year 1989 the funds available in the Guaranty Reserve Fund (Fund) are insufficient to enable the Secretary of Defense (Secretary) to discharge his responsibilities, as guarantor of loans guaranteed pursuant to section 24 of the Arms Export Control Act (AECA) or pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, under the heading "Foreign Military Sales Debt Reform", the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or obligations may be redeemed by the Secretary from appropriations and other funds available, including repayments by the borrowers of amounts paid pursuant to guarantees issued under section 24 of the AECA. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this heading. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

$939,500,000
(indefinite)

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $236,865,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1989, to remain available for obligation until September 30, 1991: *Provided,* That section 632(d) of the Foreign Assistance Act of 1961 shall be applicable to the transfer to countries pursuant to chapter 2 of part II of that Act of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act.

236,865,000
(limitation on obligations)

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $31,689,000: *Provided,* That, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, these funds may be used only as justified in the Congressional Presentation Document for fiscal year 1989: *Provided further,* That, to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts.

31,689,000

[*Total, title III, Military Assistance:*
[*New budget (obligational) authority* ..... *$5,758,339,000.*]
[*Definite* ..... *4,818,839,000.*]
[*Indefinite* ..... *939,500,000.*]
[*Limitation on obligations* ..... *236,865,000.*]

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided*, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1989 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $695,000,000: *Provided*, That at the discretion of the Chairman of the Export-Import Bank, up to $110,000,000 of that amount may be available, subject to the regular notification procedures of the Committees on Appropriations of the Senate and House of Representatives, as tied-aid credits in accordance with the provisions of the Export-Import Bank Act Amendments of 1986: *Provided further*, That there is appropriated to the Export-Import Bank of the United States an amount equal to the grant amount of tied-aid credits which are made available from time to time, but not to exceed $110,000,000, which shall be subject to the limitation on gross obligations for the principal amount of direct loans specified under this heading: *Provided further*, That during the fiscal year 1989, total commitments to guarantee loans shall not exceed $10,200,000,000 of contingent liability for loan principal: *Provided further*, That the direct loan and guaranty authority provided under this heading shall remain available until September 30, 1990.

[1] $695,000,000
695,000,000
(limitation on direct loans)

10,200,000,000
(limitation on guaranteed loans)

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $20,390,000 (to be computed on an accrual basis) shall be available during fiscal year 1989 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided*, That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connec-

20,390,000
(limitation on administrative expenses)

[1] *Reflects new budget (obligational) authority corresponding to the limitation on Export-Import Bank direct loans.*

tion with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

[*Total, Export-Import Bank of the United States:*
[*New budget (obligational) authority* ..... *$695,000,000.*]
[*Limitation on use of corporate funds*..... *10,915,390,000.*]

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $25,000,000: *Provided,* That except as provided in this or any other Act appropriating funds for foreign operations, export financing, and related programs, no provision of law enacted after May 19, 1988, may transfer funds to, or otherwise make available funds for, the Trade and Development Program: *Provided,* That notwithstanding any other provision of law, any funds contained in any previously enacted Act appropriating funds for foreign operations, export financing, and related programs which are transferred or otherwise made available to carry out the purposes of section 661 of the Foreign Assistance Act of 1961 may be deobligated and thereafter reobligated for the purposes for which such funds were originally appropriated: *Provided further,* That of the amounts appropriated under this heading up to $5,000,000 may be used for joint financing with individual State trade promotion organizations of activities directed at the expansion of trade with developing and middle income countries, including such activities as trade fairs, seminars, targeting and feasibility studies, and activities directed at enhancing the use of exports from the United States in bilateral and multilateral projects. $25,000,000

AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1989, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" shall not exceed $200,000,000 of contingent liability for loan principal. *200,000,000 (limitation on program activity)*

[*Total, title IV, Export Assistance:*
[*New budget (obligational) authority* ..... *$720,000,000.*]
[*Limitation on direct loans* ..... *695,000,000.*]
[*Limitation on guaranteed loans* ..... *10,200,000,000.*]
[*Limitation on administrative expenses*..... *20,390,000.*]
[*Limitation on program activity*..... *200,000,000.*]

TITLE V—GENERAL PROVISIONS

COST BENEFIT STUDIES

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International Organizations and Programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 502. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION AGAINST PAY TO FOREIGN ARMED SERVICE MEMBER

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

TERMINATION FOR CONVENIENCE

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

PROHIBITION OF BILATERAL FUNDING FOR MULTILATERAL PROGRAMS

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

AID RESIDENCE EXPENSES

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

AID ENTERTAINMENT EXPENSES

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $11,500 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

REPRESENTATIONAL ALLOWANCES

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $115,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the total funds made available by this Act

under the headings "Military Assistance" and "Foreign Military Credit Sales", not to exceed $2,875 shall be available for entertainment expenses and not to exceed $75,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,875 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,600 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,300 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 510. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

HUMAN RIGHTS

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, Iran, or Syria.

MILITARY COUPS

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided,* That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the prior written approval of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 515. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated ([1] $12,500,000)

[1] *Reappropriation amount is estimated. Included in totals for "development assistance"; "Agency for International Development"; "Funds Appropriated to the President"; and "title II, Bilateral Economic Assistance" (see pp. 164–170, this volume).*

against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1989, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds: *Provided further,* That the authority of this section may be used to continue the availability of any of the funds deobligated under any of such headings in order to provide relief, rehabilitation, and reconstruction assistance for Jamaica and Bangladesh: *Provided further,* That any such funds reobligated for Jamaica and Bangladesh shall be made available in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961: *Provided further,* That the authority of this section may not be exercised to deobligate and reobligate funds previously obligated for the "Economic Support Fund"

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

AVAILABILITY OF FUNDS

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

FINANCIAL INSTITUTIONS—NAMES OF BORROWERS

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

FINANCIAL INSTITUTIONS—DOCUMENTATION

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by or in the possession

of the management of the international financial institution, unless the United States governor or representative of the institution certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

COMMERCE AND TRADE

SEC. 521. None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided,* That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

SURPLUS COMMODITIES

SEC. 522. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 523. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Agriculture, rural development, and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "International AIDS Prevention and Control Program", "Education and human resources development, Development Assistance", "Private Sector, environment, and energy, Development Assistance", "Science and technology, Development Assistance", "Sub-Saharan Africa, Development Assistance", "Southern Africa, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Military Assistance", "Foreign Military Credit Sales", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, pro-

grams, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided,* That the President shall not enter into any commitment of funds appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961 or of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further,* That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year.

CONSULTING SERVICES

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PROHIBITION ON ABORTION LOBBYING

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 526. Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.

UNITED NATIONS VOTING RECORD

SEC. 527. (a) Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United

States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report.

(b) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under subsection (a), is engaged in a consistent pattern of opposition to the foreign policy of the United States.

(c) The report required by subsection (a) of this section shall continue to include the same type of information as is contained in the "Report to Congress on Voting Practices in the United Nations" which was submitted pursuant to Public Law 99-190 and Public Law 98-164 on June 6, 1986 and shall be in a format to be developed in consultation with the appropriate congressional committees: *Provided,* That any such changes are approved by legislation.

LOANS TO ISRAEL UNDER ARMS EXPORT CONTROL ACT

SEC. 528. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

PROHIBITION AGAINST UNITED STATES EMPLOYEES RECOGNIZING OR NEGOTIATING WITH PLO

SEC. 529. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

ECONOMIC SUPPORT FUNDS FOR ISRAEL

SEC. 530. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

CEILINGS AND EARMARKS

SEC. 531. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

NOTIFICATION REQUIREMENT ON FUNDING FOR LEBANON

SEC. 532. None of the funds appropriated or otherwise made available pursuant to this Act for the "Economic Support Fund" or for "Foreign Military Credit Sales" shall be obligated or expended for Lebanon except as provided through the regular notification procedures of the Committees on Appropriations.

NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

SEC. 533. (a) During the current fiscal year, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least 15 days in advance.

(b) During the current fiscal year, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

GUATEMALA—RESETTLEMENT PROGRAM

SEC. 534. Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.

ENVIRONMENTAL CONCERNS

SEC. 535. (a) It is the policy of the United States that sustainable economic growth must be predicated on sustainable use of natural resources. The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks (MDB's) to—

(1) promote the adoption of internal guidelines requiring the use of least-cost planning techniques in evaluating proposed energy loans, and consider refusal to support power generation, utilization or energy sector loans unless cost-effective conservation measures have been fully evaluated and considered;

(2) encourage each MDB to offer technical assistance to borrower nations in preparing national energy plans. Special emphasis shall be given to least-cost analysis in making decisions on energy use and development, and such analyses shall take into account all demand-side as well as supply-side options;

(3) promote expansion of MDB expertise in the areas of energy conservation and renewable energy sources;

(4) promote the adoption of lending strategies which place increased emphasis on energy conservation and efficiency as opposed to merely increasing generating capacity;

(5) promote adoption of policies which minimize emissions of greenhouse gases;

(6) promote the adoption of lending strategies that place increased emphasis on energy efficient transportation programs. Such strategies shall consider alternatives to conventional mechanized transport such as nonmotorized vehicles, public transport and increased energy and cost efficiency of transportation systems; and

(7) promote the use of existing and the development of new mechanisms to promote conservation of biological diversity. Existing resources to be consulted shall include but not be limited to Conservation Data Centers.

(b) The Secretary of the Treasury and the Secretary of State, in cooperation with the Administrator of the Agency for International Development, shall conduct bilateral and multilateral discussions with other members of the MDB's to further strengthen the environmental performance of each bank. These discussions shall include, but not be limited to organizational, administrative and procedural arrangements to remove impediments to the efficient and effective management of assistance programs necessary to protect and ensure the sustainable use of natural resources and to carry out such assistance programs in consultation with affected local communities.

(c) The Administrator of the Agency for International Development shall—

(1) in the submission of future "early warning system" reports, as required by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, make use of resources that promote the conservation of biological diversity, such as Conservation Data Centers;

(2) submit a report to the Committees on Appropriations, by January 15, 1989, on the Agency's activities and practices which encourage or discourage the use of renewable energy technologies overseas, and on ways to correct or refocus those efforts. This report shall include but is not limited to Agency activities which could be directed to develop a stronger interface with the private sector through the establishment of a United States Renewable Energy Industry Advisory Council;

(3) issue guidance to all Agency missions stating that renewable energy resources and conservation are to be the centerpiece of its energy efforts, and meeting energy needs through these means shall be discussed in every Country Development Strategy Statement; and

(4) take steps to implement recommendations set forth by a report of the Committee on Health and Environment on opportunities for the Agency to assist developing countries in the proper use of agricultural and industrial chemicals.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 536. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made

available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

AFGHANISTAN—HUMANITARIAN ASSISTANCE

SEC. 537. Not less than $45,000,000 of the aggregate amount of funds appropriated by this Act, to be derived in equal parts from the funds appropriated to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 538. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

EL SALVADOR—INVESTIGATION OF MURDERS

SEC. 539. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders.

REFUGEE RESETTLEMENT

SEC. 540. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Credit Sales", "Military Assistance", "International Military Education and Training", the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

IMMUNIZATIONS FOR CHILDREN

SEC. 541. (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not

been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

ETHIOPIA—FORCED RESETTLEMENT, VILLAGIZATION

SEC. 542. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SUDAN, SOMALIA, BURUNDI, LIBERIA, UGANDA, AND JAMAICA NOTIFICATION REQUIREMENTS

SEC. 543. None of the funds appropriated in this Act shall be obligated or expended for Sudan, Burundi, Liberia, Uganda, Jamaica or Somalia except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 544. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund; Military Assistance; and Foreign Military Credit Sales, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the functional development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961, as amended.

CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 545. Of the funds made available by this Act and appropriated for the "Child Survival Fund" and "Health, Development Assistance", up to $6,000,000 may be used to reimburse United States Government agencies, agencies of State governments, and institutions of higher learning for the full cost of employees detailed or assigned, as the case may be, to the Agency for International Development for the purpose of carrying out child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided,* That personnel which are detailed or assigned for the purposes of this section shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment.

INTER-AMERICAN DEVELOPMENT BANK—COORDINATION OF PROJECTS

SEC. 546. The Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to work with the representatives, and with the ministries from

which they receive their instructions, of other donor nations to the Inter-American Development Bank, to develop a coordinated economic development program for the assistance activities of the Bank. Such program should be developed in cooperation with the Department of State and the Agency for International Development to ensure that the bilateral economic assistance programs of the United States are effectively coordinated with the activities of the Inter-American Development Bank.

CHILE—LOANS FROM MULTILATERAL DEVELOPMENT INSTITUTIONS

SEC. 547. (a) It is the sense of Congress that pursuant to section 701 of the International Financial Institutions Act of 1977, the United States Government should oppose all loans to Chile from international financial institutions, except for those for basic human needs, until—

(1) the Government of Chile has ended its practice and pattern of gross abuse of internationally recognized human rights;

(2) significant steps have been taken by the Government of Chile to restore democracy, including—

(A) the implementation of political reforms which are essential to the development of democracy, such as the legalization of political parties, the enactment of election laws, the establishment of freedom of speech and the press, and the fair and prompt administration of justice; and

(B) a precise and reasonable timetable has been established for the transition to democracy.

(b) Except for programs under section 534(b) (4) or (6) of the Foreign Assistance Act of 1961 to support the efforts of private groups and individuals seeking to develop a national consensus on the importance of an independent judiciary and the administration of justice generally in a democratic society, assistance for which programs may be made available notwithstanding section 726 of the International Security and Development Cooperation Act of 1981, none of the funds made available by this Act for the "Economic Support Fund" or for title III shall be obligated or expended for Chile.

COMMODITY COMPETITION

SEC. 548. None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this section shall not prohibit:

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

PROHIBITION OF FUNDING RELATED TO COMPETITION WITH UNITED STATES EXPORTS

SEC. 549. None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff

Schedules of the United States, 19 U.S.C. 1202, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 550. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, Iran, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

ASSISTANCE FOR LIBERIA

SEC. 551. (a) Funds appropriated by this Act under the heading "Military Assistance" or "Economic Support Fund" may be made available for assistance for Liberia only if the Secretary of State certifies to the Congress that the Government of Liberia—

(1) has taken significant steps to: reduce extra-budgetary expenditures; reduce borrowing from any source (whether local or foreign) in anticipation of future tax receipts, profit sharing, maritime revenues, or other revenues; reduce the use of offshore funds for the financing of domestic expenditures; and reduce the extent to which public expenditures exceed allocations;

(2) has ceased diverting and misusing United States assistance, and has paid all amounts owed to the local currency accounts (established pursuant to the Agricultural Trade Development and Assistance Act of 1954) for the shortfalls in its payments for the fiscal years 1983 and 1984; and

(3) is making significant progress toward—

(A) permitting all political parties to freely organize, assemble, and disseminate their views as provided for by the Liberian constitution;

(B) respecting constitutional guarantees of freedom of the press and freedom of speech;

(C) maintaining the independence of the legislative branch in accordance with the Liberian constitution;

(D) establishing and maintaining an independent judiciary;

(E) providing full access to all political prisoners by internationally respected human rights organizations for the purpose of investigating human rights abuses;

(F) improving the human rights situation; and

(G) satisfying Liberia's undisputed debts to United States citizens.

(b) None of the funds appropriated in this Act shall be obligated or expended for Liberia except as provided through the regular notification procedures of the Committees on Appropriations.

(c) The requirements of this section are in addition to any other statutory requirements applicable to assistance for Liberia.

RECIPROCAL LEASING

SEC. 552. Section 61(a) of the Arms Export Control Act is amended by striking out "1988" and inserting in lieu thereof "1989".

LIMITATION ON DEFENSE EQUIPMENT DRAWDOWN

SEC. 553. Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided*, That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 554. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided*, That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 555. Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided*, That section 514 of the Foreign Assistance Act of 1961 is amended by amending subsection (b)(2) to read as follows: "(2) The value of such additions to stockpiles in foreign countries shall not exceed $77,000,000 for fiscal year 1989.": *Provided further*, That the amendment in the nature of a substitute to the text of H.R. 4645, as ordered reported from the Committee on Banking, Finance and Urban Affairs on September 22, 1988, is hereby enacted into law: *Provided further*, That title I of H.R. 5263 as passed by the House of Representatives on September 20, 1988, is hereby enacted into law: *Provided further*, That purchases, investments or other acquisitions of equity by the fund created by section 104 of H.R. 5263 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: *Provided further*, [1] That notwithstanding any other provision of this Act, titles [2] I and III of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988, are hereby enacted into law: *Provided further*, That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted are limited to such amounts as may be provided in advance in appropriations [3] Acts: *Provided further*, That section 901(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

[1] Copy read "that".
[2] Copy read "I.".
[3] Copy read "Acts".

[4] "(a) GENERAL.—Notwithstanding any other provision of law, no nonimmigrant alien may be denied a visa or excluded from admission into the United States, or subject to deportation because of any past, current or expected beliefs, statements or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United [5] States.": *Provided further,* That subsection [6] (b) of section 901 of such Act is amended—

(1) by inserting "to deny adjustment of status of," after "deny issuance of a visa to,";

(2) by inserting in paragraph (1) before the semicolon, ", unless such alien is seeking issuance of a visa, adjustment of status, or admission to the United States as an [7] immigrant.": *Provided further,* That subsection (d) of section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

[8] "(d) EFFECTIVE PERIOD.—Subsection (a) shall only apply to—

"(1) applications for [9] nonimmigrant visas submitted before January 1, 1991;

"(2) admissions sought before March 1, 1991;

"(3) deportations based on activities occurring before January 1, 1991, or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time between December 31, 1987 and January 1, 1991.": *Provided further,* That the amendment made in the [10] preceding sentence shall not require the deportation of aliens admitted for permanent resident status under section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as in effect before the date of enactment of this Act: *Provided further,* That title III of S. 2757 shall be in effect for fiscal years 1989 and 1990: *Provided further,* That the Comptroller General of the United States shall examine the use of nonimmigrant visas under section 101(a)(15)(J) of the Immigration and Nationality Act for current programs of educational and cultural exchange and shall, not later than 30 days before the end of fiscal year 1989, submit to the Committees on the Judiciary of the Senate and House of Representatives, a report on whether the participants in programs of cultural exchange receiving visas under that section are performing activities consistent with the congressional intent for the implementation of that section: *Provided further,* That notwithstanding section 208 of the United States Information Agency Authorization Act, Fiscal Years 1986 and 1987 and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United [11] States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "Land of Enchantment"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall reimburse the Director for any expenses of the Agency in making that master copy available, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States. Any reimbursement to the Director pursuant to this section shall be

[4] Copy read "(a) IN GENERAL.—"
[5] Copy read "States:".
[6] Copy read "(b)".
[7] Copy read "immigrant." ".
[8] Copy read " "(d) Effective Period.—".
[9] Copy read "non-immigrant".
[10] Copy read "preceeding".
[11] Copy read "Sates".

credited to the applicable appropriation of the United States Information [12] Agency.

NOTIFICATION CONCERNING EL SALVADOR

SEC. 556. (a) The Congress expects that—

(1) the Government of El Salvador and the armed opposition forces and their political representatives will be willing to pursue a dialogue for the purposes of achieving an equitable political settlement of the conflict, including free and fair elections;

(2) the elected civilian government will be in control of the Salvadoran military and security forces, and those forces will comply with applicable rules of international law and with Presidential directives pertaining to the protection of civilians during combat operations, including Presidential directive C-111-03-984 (relating to aerial fire support);

(3) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in ending the activities of the death squads;

(4) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in establishing an effective judicial system; and

(5) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in implementing the land reform program.

(b) REPORTS.—On April 1, 1989, and September 30, 1989, the President shall report to the Speaker of the House of Representatives, the Committees on Appropriations and the chairman of the Committee on Foreign Relations of the Senate on the extent to which the objectives described in subsection (a) are being met. With respect to the objective described in paragraph (4) of that subsection, each report shall specify the status of all cases presented to the Salvadoran courts involving human rights violations against civilians by members of the Salvadoran security forces, including military officers and other military personnel and civil patrolmen.

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

SEC. 557. The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided*, That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements.

MIDDLE EAST REGIONAL COOPERATION

SEC. 558. Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than $5,000,000 from funds appropriated under the heading "Economic Support Fund": *Provided*, That the provisos contained in section 564 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, are hereby repealed.

[12] Copy read "Agency".

ASSISTANCE FOR THE PEOPLE OF LEBANON

SEC. 559. The Congress recognizes that the people of Lebanon have suffered greatly during much of the past two decades from the effects of natural disasters and civil strife. The Congress further recognizes that assistance provided through nongovernmental organizations has had a significant impact in mitigating the adverse consequences of these unfortunate events on the Lebanese people. Therefore, up to $5,000,000 of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be made available to provide assistance for the people of Lebanon. Such assistance shall be made available only through the United Nations Children's Fund, indigenous nongovernmental organizations, or international organizations, and shall be provided in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961.

MEMBERSHIP DESIGNATION IN ASIAN DEVELOPMENT BANK

SEC. 560. It is the sense of the Congress that the United States Government should use its influence in the Asian Development Bank to secure reconsideration of that institution's decision to designate Taiwan (the Republic of China) as "Taipei, China". It is further the sense of the Congress, that the Asian Development Bank should resolve this dispute in a fashion that is acceptable to Taiwan (the Republic of China).

DEPLETED URANIUM

SEC. 561. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987 or, (3) countries for which repayment, in whole or in part, of foreign military credits provided in fiscal year 1988 is forgiven.

EARMARKS

SEC. 562. Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988; however, before exercising the authority of this section with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That assistance that is reprogrammed pursuant to this section shall be made available under the same terms and conditions as originally provided.

HAITI

SEC. 563. (a) SUSPENSION OF ASSISTANCE.—During fiscal year 1989, none of the funds made available by this Act or by any other Act or joint resolution may be obligated or expended to provide United States assistance (including any such assistance appropriated and previously obligated) for Haiti (other than the assistance described in subsection (b) of this section) unless the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the provisional Electoral Council, is being fully and faithfully adhered to by the Government of Haiti.

(b) EXCEPTIONS.—The term "United States assistance" does not include—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 insofar as such assistance is provided through private and voluntary organizations or other nongovernmental agencies;

(2) assistance which involves the donations of food or medicine;

(3) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961);

(4) assistance for refugees;

(5) assistance under the Inter-American Foundation Act;

(6) assistance necessary for the continued financing of education for Haitians in the United States;

(7) assistance provided in order to enable the continuation of migrant and narcotics interdiction operations;

(8) activities under the National Endowment for Democracy Act;

(9) assistance under title IV, chapter 2 of part I of the Foreign Assistance Act of 1961 (relating to the Overseas Private Investment Corporation); or

(10) assistance under the Peace Corps Act.

(c) OTHER SANCTIONS.—It is the sense of the Congress that, in order to further encourage the Government of Haiti to adhere to the constitutionally mandated transition to democracy, the President should—

(1) suspend Haiti's eligibility for benefits under the Caribbean Basin Economic Recovery Act; and

(2) seek international cooperation to encourage such adherence by the Government of Haiti through the imposition of an international arms embargo and comprehensive trade and financial sanctions.

(d) EFFECT OF FISCAL YEAR 1988 PROGRAMS.—Assistance may be provided for Haiti during fiscal year 1988 under title IV, chapter 2 of part I of the Foreign Assistance Act of 1961, or under the Peace Corps Act notwithstanding section 569 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988.

ASSISTANCE FOR PANAMA

SEC. 564. (a) Unless the President certifies to Congress that—

(1) the Government of Panama has demonstrated substantial progress in assuring civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from non-military activities and institutions;

(2) an impartial investigation into allegations of illegal actions by members of the Panama Defense Force is being conducted;

(3) a satisfactory agreement has been reached between the governing authorities and representatives of the opposition forces on conditions for free and fair elections; and

(4) freedom of the press and other constitutional guarantees, including due process of law, are being restored to the Panamanian people;

then no United States assistance (including any such assistance appropriated and previously obligated) shall be obligated or expended for programs, projects, or activities which assist or lend support for the Noriega regime, or ministries of government under the control of the Noreiga regime, or any successor regime that does not meet the criteria specified in subsection (a) of this section in this fiscal year and any fiscal year thereafter, and none of the funds appropriated or otherwise made available in this Act, or any other Act, shall be used to finance any participation of the United States in joint military exercises conducted in Panama during the fiscal year 1989.

(b) It is the sense of the Congress that if the conditions described in paragraphs (1) through (4) of subsection (a) have been certified as having been met, then not only will United States assistance be restored, but increased levels of such assistance should be considered for Panama.

(c) For purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of such Act);

(2) sales, credits, and guarantees under the Arms Export Control Act;

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(4) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities;

(5) financing under the Export-Import Bank Act of 1945; and

(6) assistance provided by the Central Intelligence Agency or assistance provided by any other entity or component of the United States Government if such assistance is carried out in connection with, or for purposes of conducting, intelligence or intelligence-related activities except that this shall not include activities undertaken solely to collect necessary intelligence;

except that the term "United States assistance" does not include (A) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 insofar as such assistance is provided through private and voluntary organizations or other nongovernmental agencies, (B) assistance which involves the donations of food or medicine, (C) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961), (D) assistance for refugees, (E) assistance under the Inter-American Foundation Act, (F) assistance necessary for the continued financing of education for Panamanians in the United States, or (G) assistance made available for termination costs arising from the requirements of this section.

(d) The Secretary of the Treasury shall instruct the United States Executive Directors to the International Financial Institutions (the International Bank for Reconstruction and Development, the International Finance Corporation, and the Inter-American Development Bank) to vote against any loan to Panama, unless the President has certified in advance that the conditions set forth in subsection (a) of this section have been met.

ELIMINATION OF THE SUGAR QUOTA ALLOCATION OF PANAMA

SEC. 565. (a) IN GENERAL.—Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of Panama may be imported into the United States after the date of enactment of this Act during any period for which a limitation is imposed by authorities provided under any other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States: *Provided,* That such products may be imported after the beginning of the last week of any quota year if the President certifies that for the entire duration of the quota year, freedom of the press and other constitutional guarantees, including due process of law, have been restored to the Panamanian people.

(b) REALLOCATION OF QUOTA AMOUNTS.—For any quota year for which the President does not certify for the entire duration of the quota year, freedom of the press and all other constitutional guarantees, including due process of law, have been restored to the Panamanian people, no later than the last week of such quota year, the United States Trade Representative shall reallocate among other foreign countries the quantity of sugar, sirup, and molasses products of Panama that could have been imported into the United States before the date of enactment of this Act under any limitation imposed by other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States during any period.

(c) CERTIFICATION.—The provisions of subsections (a) and (b), and the amendments made by subsection (c) of section 571 of the Foreign Operations, Export Financing, and Related Programs, Appropriations Act, 1988, shall cease to apply if the President certifies to Congress pursuant to section 564(a) of this Act.

STINGERS IN THE PERSIAN GULF REGION

SEC. 566. (a) PROHIBITION.—Except as provided in subsection (b), no Stinger antiaircraft missiles may be provided, directly or indirectly, by sale, lease, grant or otherwise, during fiscal year 1989 to any country in the Persian Gulf region.

(b) EXCEPTION.—Notwithstanding the prohibition in subsection (a), such missiles may be provided to Bahrain if the President certifies to Congress that—

(1) such missiles are needed by the recipient country to counter an immediate air threat and/or to contribute to the protection of United States personnel, facilities or operations;

(2) no other appropriate system is available from the United States;

(3) the recipient agrees to safeguards as required in the Letter of Offer and Acceptance by the United States Government to protect against diversion; and

(4) the recipient country has agreed to a United States buyback of all the remaining missiles and components which have not been destroyed or fired in order to return them to the possession and control of the United States when another United States air defense system which meets the military requirements can be made available or not more than 18 months from the date of enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988.

(c) NOTIFICATION.—Before issuing any letter of offer to sell or provide Stinger missiles (without regard to the amount of the sale or transfer) the President shall notify the Speaker of the House of Representatives and the Majority Leader of the Senate. Any such notification shall contain the information required in a certification under section 36(b) of the Arms Export Control Act.

(d) ILLEGAL ACQUISITION.—Effective April 1, 1989, before issuing any letter of offer to sell any defense article or defense service to Qatar, Qatar shall have returned all Stinger antiaircraft missiles illegally acquired or purchased. The President shall notify the Committees on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate when all such missiles have been returned.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 567. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 568. Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to fiscal year 1989—

(1) shall not be obligated or expended for assistance to a country listed in section 6(j) of the Export Administration Act of 1979 on the date of enactment of this Act or placed on that list thereafter,

(2) if obligated before such date as assistance for such country, shall not be disbursed, and

(3) if expended before such date for assistance to be delivered to such country from the United States or by United States nationals, then no such delivery shall be made,

unless such assistance is for humanitarian purposes.

MAINTENANCE OF MILITARY BALANCE OF EASTERN MEDITERRANEAN

SEC. 569. (a) UNITED STATES POLICY.—The Congress intends that excess defense articles be made available under this section consistent with the United States policy, established by section 620C of the Foreign Assistance Act of 1961, of maintaining the military balance in the eastern Mediterranean.

(b) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, for each fiscal year, the ratio of—

(1) the value of excess defense articles made available for Turkey under this section, to

(2) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

(A) the amount of military assistance and financing provided for Turkey, to

(B) the amount of military assistance and financing provided for Greece.

(c) EXCEPTION TO REQUIREMENT.—Subsection (b) shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles.

DETENTION OF CHILDREN

SEC. 570. It is the sense of the Congress that the practice of detaining children without charge or trial is unjust, inhumane, and is an affront to civilized principles. The Congress further believes that it should be the policy of the United States to make the ending of the practice of detaining children without charge or trial a matter of the highest priority. Therefore, the Congress believes the Secretary of State should convey to all international organizations that ending the practice of detaining children without charge or trial should be a policy of the highest priority for those organizations.

MILITARY ASSISTANCE TO MOZAMBIQUE

SEC. 571. Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available pursuant to this Act may be used to provide military assistance to Mozambique.

RELATIVELY LEAST DEVELOPED COUNTRIES

SEC. 572. During fiscal years 1990 and 1991, the President may use the authority of paragraphs (A) and (B) of section 124(c)(1) of the Foreign Assistance Act of 1961 with respect to such aggregate amounts of principal and interest payable during each of these fiscal years as the President may determine, or at any time after September 30, 1989, the President may, if he determines it is in the national interest to do so, use the authority of those paragraphs with respect to such aggregate amounts of outstanding principal and interest payable at any time after that date as the President may determine. The authority provided in this section may be exercised with respect to any country described in the last sentence of this section and may be exercised notwithstanding section 124(c)(2) of that Act. In exercising the authority provided in this section, the President may waive the requirement that equivalent amounts of local currencies be deposited into local currency accounts in accordance with paragraph (A) of section 124(c)(1) of that Act, to the extent that the President determines that sufficient local currencies are otherwise available to achieve development objectives. This section applies with respect to any relatively least developed country, or any country in Sub-Saharan Africa (without regard to whether that country is a relatively least developed country within the meaning of section 124(a) of that Act), if—

(1) an International Monetary Fund standby agreement is in effect with respect to that country; or

(2) a structural adjustment program of the International Bank for Reconstruction and Development or of the International Development Association is in effect with respect to that country; or

(3) a structural adjustment facility or enhanced structural adjustment facility with the International Monetary Fund is in effect with respect to that country.

HONDURAS—RAMIREZ CASE [1]

SEC. 574. It is the sense of the Congress that, pursuant to the procedures contained in section (j) under the heading "Assistance for Central America" enacted in Public Law 100-71, the Honduran Government appears to have made a reasonable and good faith settlement offer based on a factual analysis by third parties, and the

[1] *Sec. 573 was erroneously not enrolled and was corrected in P.L. 101-45, Title III, Technical Enrollment Corrections, sec. 302, by inserting the following:*

"RESOLUTION OF JAPANESE BEETLE PROBLEM"

"SEC. 573. None of the funds appropriated by this Act may be used to fund any programs to assist in solving the Japanese beetle problem in the Azores. It is the sense of the Congress that this problem was created by the Department of Defense which should fund any program to resolve it.".

owner of the property in question is strongly encouraged to accept the proposed settlement. Therefore, notwithstanding the provisions of such section, $5,000,000 of the Economic Support Funds made available by Public Law 100-71 for Honduras but withheld from expenditure shall be available for expenditure upon enactment of this Act: *Provided*, That if a settlement is reached on the property in question, then the additional $15,000,000 withheld from expenditure pursuant to such section shall then be available for expenditure.

CONGRESSIONAL PRESENTATION FOR SECURITY ASSISTANCE PROGRAMS

SEC. 575. Unless the fully printed final version of the fiscal year 1990 Congressional Presentation for Security Assistance Programs is received by the Congress by March 1, 1989, $10,000,000 of the funds appropriated by this Act for the Military Assistance Program shall be returned immediately to the General Fund of the United States Treasury.

SOUTH AFRICA—SCHOLARSHIPS

SEC. 576. Of the funds made available by this Act under the heading "Economic Support Fund", not less than $10,000,000 shall be made available for scholarships for disadvantaged South Africans: *Provided*, That these funds shall be in addition to funds earmarked under such heading for Sub-Saharan Africa.

THIRD PARTY TRANSFER

SEC. 577. Section 3(d) of the Arms Export Control Act is amended—

(1) in paragraph (2)(A), by striking out "law" and inserting in lieu thereof "joint resolution, as provided for in sections 36(b)(2) and 36(b)(3) of this Act"; and

(2) in paragraph (3), by adding at the end thereof "Such consent shall become effective then only if the Congress does not enact, within a 30-day period, a joint resolution, as provided for in sections 36(c)(2) and 36(c)(3) of this Act prohibiting the proposed transfer.".

NARCOTICS CONTROL PROGRAM

SEC. 578. (a)(1) Of the funds appropriated by this Act under the heading "Economic Support Fund" $61,000,000 shall be made available only for Bolivia, Ecuador, Jamaica, and Peru; but not more than $25,000,000 shall be available to any one country.

(2) Of the funds appropriated by this Act to carry out the provisions of section 503 of the Foreign Assistance Act of 1961 (relating to the military assistance program) $16,500,000 shall be made available only for Bolivia, Ecuador, Jamaica, and Colombia, but not more than $5,000,000 shall be available for any one country.

(3) Of the funds appropriated by this Act to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $3,500,000 shall be made available in accordance with the general authorities contained in section 481(a) of the Foreign Assistance Act of 1961, only for the procurement of weapons or ammunition for foreign law enforcement agencies, and paramilitary units organized for the specific purposes of narcotics enforcement, for use in narcotics control, eradication, and interdiction efforts, notwithstanding section 482(b) of such Act: *Provided*, That funds made available under this paragraph shall be made available only for Bolivia, Peru, Colombia, Ecuador, and for the regional air wing pursuant to sections 482 and 484 of the Foreign Assistance Act of 1961, and shall be

in addition to amounts earmarked for the countries contained in paragraph (2) of this subsection.

(4) Funds made available under this subsection shall be available for obligation consistent with the provisions of section 481(h) of the Foreign Assistance Act of 1961 (relating to International Narcotics Control) except as provided in paragraph (3) of this subsection.

(b) None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1988, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures (including satisfying the goals agreed to in applicable bilateral narcotics agreements as defined in section 481(h)(2)(A)(ii) of the Foreign Assistance Act of 1961) to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

(c) In making determinations with respect to Bolivia, Colombia, Ecuador, and Peru pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of each country is sufficiently responsive to United States Government concerns on coca control and whether the provision of assistance for that country is in the national interest of the United States.

(d) If any funds appropriated by this Act for "Economic Support Fund", "Military Assistance", "International Military Education and Training", or "Foreign Military Credit Sales" are not used for assistance for the country for which those funds were allocated because that country has not taken adequate steps to halt illicit drug production or trafficking, those funds shall be reprogrammed for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking: *Provided*, That any such reprogramming shall be subject to the notification procedures of the Committees on Appropriations.

(e)(1) Of the funds appropriated under title II of this Act for the Agency for International Development, up to $10,000,000 should be made available for narcotics education and awareness programs (including public diplomacy programs), of the Agency for International Development, and up to $15,000,000 of the funds appropriated under title II of this Act should be made available for narcotics related economic assistance activities.

(2) Section 481(i)(4)(E) of the Foreign Assistance Act of 1961 is amended by—

(A) inserting "(vii) assistance for narcotics education and awareness activities under section 126 of this Act;" after "this Act,"; and

(B) redesignating clause (vii) as clause (viii).

(f) In order to maximize the participation of other countries in the effort to promote international narcotics control, the Secretary of State is directed to urge the United Nations Fund for Drug Abuse Control to develop a more comprehensive program for enlisting greater multilateral support for coca control programs and related development activities in South America.

(g)(1) Section 481(h)(2)(A)(ii) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(ii) A bilateral narcotics agreement referred to in clause (i)(I) is an agreement between the United States and a foreign

country whereby the foreign country agrees to undertake specific activities including, where applicable, efforts to reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution; drug interdiction and enforcement; drug consumption and treatment; identification and elimination of illicit drug laboratories; identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs; cooperation with United States drug enforcement officials; and, where applicable, participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.".

(2) Section 585(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in Public Law 100-202) is amended to read as follows.

"(c) Beginning with certifications with respect to fiscal year 1989 and each subsequent year, a country which in the previous year was designated a major drug producing or drug transit country may not be deemed as cooperating fully unless it has in place a bilateral narcotics agreement with the United States, or a multilateral agreement which achieves the objectives of this section.".

(3) Section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961 is amended by inserting "or multilateral agreement which achieves the objectives of this subsection," after "(ii)".

(h) Section 481(h)(1) of the Foreign Assistance Act of 1961 is amended by inserting before "Subject" the following: "Not later than October 1 of each year, the Secretary of State shall submit a report to the Congress of those countries identified by the Secretary as being major drug producing or major drug transit countries (including the definition used to determine such drug transit countries) for purposes of the withholding requirements contained in subparagraph (A) of this paragraph and the certification requirements contained in paragraph (2) of this subsection.".

(i) Section 481(h)(2)(B) of the Foreign Assistance Act of 1961 is amended by striking out "clause (A)(ii)" and inserting in lieu thereof "subparagraph (A)(i)(II)".

TURKISH AND GREEK MILITARY FORCES ON CYPRUS

SEC. 579. Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this section shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this section.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 580. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of

aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

CAMBODIAN NON-COMMUNIST RESISTANCE FORCES

SEC. 581. If the President makes available funds appropriated by this Act for the Cambodian non-Communist resistance forces, not to exceed $5,000,000 may be made available for such purpose, and such funds shall be derived from funds appropriated under the headings "Military Assistance" and "Economic Support Fund", and shall be made available notwithstanding any other provision of law: *Provided*, That funds made available for this purpose shall be obligated in accordance with the provisions of section 906 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83).

HUMAN RIGHTS IN CUBA

SEC. 582. It is the sense of the Congress that—

(1) the United Nations, the United Nations Human Rights Commission, and the Chairman of the Commission are to be commended for Decision 1988/106 as interpreted by the Chairman which establishes a working group on Cuba to conduct an on-site investigation on Cuban human rights conditions and prepare a report for consideration under agenda item 12(b) at the 45th session of the Commission in 1989;

(2) the President, the Secretary of State, the Permanent Representative of the United States to the United Nations, and the Representative of the United States to the United Nations Human Rights Commission are to be commended for their efforts to place Cuba on the agenda of the Commission and are strongly encouraged to continue to support and assist the Commission in its implementation of Decision 1988/106;

(3) the following countries are to be commended for their courageous support for an independent investigation of the human rights situation in Cuba under the auspices of the United Nations and consideration of Cuba under agenda item 12 at the 45th session of the Commission: Bangladesh, Belgium, Costa Rica, France, the Gambia, Federal Republic of Germany, Ireland, Japan, Mozambique, Norway, the Philippines, Sao Tome and Principe, Portugal, Senegal, Somalia, Togo, the United Kingdom, and Venezuela;

(4) the following countries, despite overwhelming evidence of serious human rights abuses in Cuba, failed to support the efforts of the United States to establish an independent working group on Cuba and to provide for consideration of the report of this group under agenda item 12, a nonconfidential procedure reserved for countries with records of serious human rights violations: Algeria, Argentina, Botswana, Bulgaria, People's Republic of China, Colombia, Cyprus, Ethiopia, German Democratic Republic, India, Iraq, Mexico, Nicaragua, Nigeria, Pakistan, Peru, Rwanda, Spain, Sri Lanka, Union of Soviet Socialist Republics, and Yugoslavia;

(5) in accordance with section 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, the United States should continue to take into account whether countries support an independent investigation of human rights violations in Cuba under the auspices of the United Nations and consideration of Cuba under agenda item 12

at the 45th session of the Commission when considering bilateral assistance and the financial contribution to the United Nations; and

(6) the Congress strongly objects to the election of Cuba and Panama to the Commission and strongly urges the Secretary General and Chairman, and the other members of the Commission to insure that Cuba and Panama do not in any way interfere with the independence of the pending investigation, the preparation of the resulting report, or the consideration of this report under agenda item 12(h) at the Commission's 45th session.

ASSISTANCE FOR POLAND

SEC. 583. Up to the equivalent of $500,000 of the non-convertible and convertible Polish currencies (after satisfaction of preexisting commitments to use such currencies for other purposes specified by law) held by the United States which have been generated by the sale to Poland of United States agricultural products may be made available for the reconstruction, renovation, and maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland: *Provided*, That such currencies shall be made available notwithstanding 31 U.S.C. 1306.

COMPETITIVE INSURANCE

SEC. 584. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate.

PAY RAISES

SEC. 585. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

FAIR PRICING

SEC. 586. (a) The last sentence of paragraph (3) of section 503(a) of the Foreign Assistance Act of 1961 is amended by inserting immediately after the phrase "under paragraph (3)" the phrase "or from funds made available on a non-repayable basis under section 23 of the Arms Export Control Act", and by inserting after "Armed Forces of the United States" the phrase "(other than the Coast Guard)".

(b) The Secretary of Defense shall waive collection of the following amounts of surcharges otherwise due on the letter of offer and acceptance (without amendment) for the sale to Israel of aircraft known as Peace Marble III and on the letter of offer and acceptance (without amendment) for the sale to Egypt of aircraft known as Peace Vector III:

(1) $20,000,000 of administrative surcharges under section 21(e)(1)(A) of the Arms Export Control Act for the letter of offer and acceptance with Israel and $11,700,000 of administrative surcharges under that section for the letter of offer and acceptance with Egypt: *Provided*, That the Secretary shall reimburse the fund established to carry out section 43(b) of the Arms Export Control Act in the amount of the surcharges waived pursuant to this paragraph from any funds available to the Department of Defense, as he determines; and

(2) $70,000,000 of nonrecurring cost recoupment surcharges under section 21(e)(1)(C) of the Arms Export Control Act for the letter of offer and acceptance with Israel and $38,000,000 of nonrecurring cost recoupment surcharges under that section for the letter of offer and acceptance with Egypt.

(c) This section shall be effective on October 1, 1989.

IRELAND

SEC. 587. It is the sense of the Congress that of the funds appropriated or otherwise made available for the International Fund for Ireland, the Board of the International Fund for Ireland should give great weight in the allocation of such funds to projects which will create permanent, full-time jobs in the areas that have suffered most severely from the consequences of the instability of recent years. Areas that have suffered most severely from the consequences of the instability of recent years shall be defined as areas that have high rates of unemployment.

NOTICE TO CONGRESS REGARDING POSSIBLE MISSILES SALES

SEC. 588. (a) PRICE AND AVAILABILITY REPORTS.—Section 28 of the Arms Export Control Act is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "or" after "$7,000,000 or more" and inserting in lieu thereof a comma, and

(B) by inserting ", or of any Air-to-Ground or Ground-to-Air missiles, or associated launchers (without regard to the amount of the possible sale)," after "$25,000,000 or more"; and

(2) in clause (2) of subsection (b)—

(A) by striking out "or" after "$7,000,000 or more" and inserting in lieu thereof a comma, and

(B) by inserting ", or of any Air-to-Ground or Ground-to-Air missiles or associated launchers (without regard to the amount of the proposed sale)," after "$25,000,000 or more".

(b) NOTIFICATIONS IN THE ABSENCE OF RECENT PRICE AND AVAILABILITY REPORT LISTING.—

(1) SALES SUBJECT TO NOTIFICATION REQUIREMENT.—Paragraph (2) of this subsection applies with respect to any letter of offer to sell any Air-to-Ground or Ground-to-Air missiles, or associated launchers (without regard to the amount of the sale) if, within the preceding 6 months, a listing has not been transmitted to the Congress pursuant to section 28 of the Arms Export Control Act with respect to that sale and if section 36(b) of that Act does not apply.

(2) REQUIREMENT FOR NOTIFICATION.—Before issuing any letter of offer described in paragraph (1), the President shall notify the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate. Any such notification shall contain the information required in a certification under section 36(b) of the Arms Export Control Act.

(3) TIME FOR NOTIFICATION.—The notification required by paragraph (2) shall be submitted not less than 30 days before the letter of offer is issued, unless the President states in the notification that an emergency exists which requires the proposed sale in the national security interests of the United States. If the President states that such an emergency exists, he shall include a detailed justification for his determination,

including a description of the emergency circumstances which necessitate the immediate issuance of the letter of offer and a discussion of the national security issues involved.

FUNDING ADJUSTMENTS

SEC. 589. Notwithstanding any other provision of this Act, the following amount is hereby appropriated in lieu of the amount contained previously herein for payment to the African Development Bank, $7,345,371: *Provided,* That notwithstanding any other provision of this Act, during fiscal year 1989, total commitments by the Overseas Private Investment Corporation to guarantee loans shall not exceed $175,000,000 of contingent liability for loan principal: *Provided further,* That section 514 of this Act is amended to read as follows:

[1] ($7,345,371)

[2] *(175,000,000)*

"TRANSFERS BETWEEN ACCOUNTS

"SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated.".

OLD EXECUTIVE OFFICE BUILDING

SEC. 590. (a) ACCEPTANCE OF GIFTS OF MONEY AND PROPERTY.—The Director of the Office of Administration is authorized to—

(1) accept, hold, administer, utilize and sell gifts and bequests of property, both real and personal, and loans of personal property other than money; and

(2) accept and utilize voluntary and uncompensated services;

for the purpose of aiding, benefiting, or facilitating the work of preservation, restoration, renovation, rehabilitation, or historic furnishing of the Old Executive Office Building and the grounds thereof.

(b) ESTABLISHMENT OF FUND.—There is established in the Treasury a fund for use in accordance with the provisions of this section. Amounts of money and proceeds from the sale of property accepted under subsection (a) shall be deposited in the fund, which shall be available to the Director of the Office of Administration. Such funds shall be held in trust by the Secretary of the Treasury.

(c) USE OF FUND.—Property accepted pursuant to this section or the proceeds from the sale thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest. Any use or sale of property accepted pursuant to this section, and any use of proceeds from such sale, shall be subject to the disapproval of the Administrator of General Services within 30 days after the Administrator receives notice of such use or sale. The Director of the Office of Administration shall not accept any gift under this section that is expressly conditioned on any expenditure not to be met from the gift itself unless such expenditure has been approved by an Act of Congress.

(d) TAXES.—For the purpose of the Federal income, estate, and gift tax laws, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

EL SALVADOR ECONOMIC SUPPORT FUNDS

SEC. 591. Not less than 25 percent of the Economic Support Funds made available for El Salvador by this Act shall be used for projects and activities in accordance with the provisions applicable to assistance under chapter 1 of part I of the Foreign Assistance Act of 1961.

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[1] *Amends "Contributions to the African Development Banks" (see p. 157, this volume).*

[2] *Amends "Overseas Private Investment Corporation" (see p. 168, this volume).*

ASSISTANCE TO AFGHANISTAN

SEC. 592. Funds appropriated by this Act may not be made available, directly or for the United States proportionate share of programs funded under the heading "International Organizations and Programs", for assistance to be provided inside Afghanistan if that assistance would be provided through the Soviet-controlled government of Afghanistan. This section shall not be construed as limiting the United States contributions to international organizations for humanitarian assistance.

COSTA RICA

SEC. 593. The Department of State shall select an independent factfinder to investigate the legal and financial issues related to the case involving the Government of Costa Rica and an American citizen concerning property and businesses in the vicinity of Limon Province, Costa Rica. The Department of State shall report, no later than March 1, 1989, the findings made by the factfinder to the parties involved and to the Committees on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The costs of the factfinder shall be paid from unearmarked funds provided under the heading "Economic Support Fund".

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989".

Approved October 1, 1988.

LEGISLATIVE HISTORY—H.R. 4637

HOUSE REPORTS: No. 100-641 (Comm. on Appropriations) and No. 100-983 (Comm. of Conference).
SENATE REPORT No. 100-395 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 19, reported in the House.
May 25, considered and passed House.
June 22, reported in the Senate.
July 7, considered and passed Senate, amended.
Sept. 26, conference report filed in the House.
Sept. 28, House agreed to conference report; receded and concurred in certain Senate amendments and in others with amendments.
Sept. 29, House receded and concurred with an amendment in a Senate amendment.
Sept. 30, Senate agreed to conference report; agreed to House amendments to certain Senate amendments. House disagreed to Senate amendments to House amendments to certain Senate amendments. Senate receded from its amendments to House amendments to Senate amendments.

Grand total:		
New budget (obligational) authority	$14,290,032,000	
Definite	(13,316,032,000)	
Indefinite	(961,500,000)	
Reappropriation	(12,500,000)	
By transfer	*(9,000,000)*	
Limitation on obligations	*(236,865,000)*	
Limitation on guaranteed loans	*(10,550,000,000)*	
Limitation on direct loans	*(730,000,000)*	
Limitation on callable capital	*(2,428,035,486)*	
Limitation on administrative expenses	*(20,390,000)*	
Limitation on program activity	*(200,000,000)*	
Total, new budget (obligational) authority, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989		$14,290,032,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1989 contained in the foregoing annual appropriations act, the following additional amounts are available for Foreign Assistance activities for the fiscal year:

Permanent appropriations:		
Federal funds (p. 2222)	[1] $22,000,000	
Trust funds (p. 2240)	6,853,300,000	
Subtotal, additions		$6,875,300,000
Deduct amounts transferred to Department of State totals:		
Anti-terrorism assistance (p. 170)	$9,840,000	
International narcotics control (pp. 168–169)	101,000,000	
Migration and refugee assistance (pp. 169–170)	361,950,000	
United States Emergency Refugee and Migration Assistance Fund (p. 170)	50,000,000	
Subtotal, deductions		−522,790,000
Grand total, Foreign Assistance		20,642,542,000

[1] Excludes $643,196,000 for the "Guarantee Reserve Fund" submitted as a permanent indefinite appropriation, but considered as a regular annual appropriation (see p. 173, this volume). The indefinite amount was reestimated by the Congressional Budget Office to be $939,500,000.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1989

Public Law 100-404

100th Congress, H.R. 4800

August 19, 1988

AN ACT

Making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $7,538,765,000, to remain available until expended: *Provided,* That of the new budget authority provided herein, $89,350,788 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program (section 202 of the Act, as amended by section 2 of Public Law 100-358, approved June 29, 1988); $343,347,300 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $1,646,948,200 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l); $969,570,000 shall be for assistance under section 8 of the Act for projects developed for the elderly under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q); $572,059,890 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f); $368,473,610 shall be for the section 8 moderate rehabilitation program (42 U.S.C. 1437f), of which $45,000,000 is to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77); up to $307,430,000 shall be for section 8

$7,538,765,000

assistance for property disposition; and $1,354,937,780 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)): *Provided further,* That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families who as a result of rental rehabilitation actions are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 percent of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): *Provided further,* That up to $145,462,500 shall be for loan management under section 8 and that any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that exceeds five years, notwithstanding the specification in section 8(v) of the Act that such term shall be 180 months: *Provided further,* That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further,* That of the $7,538,765,000 provided herein, $355,509,000 shall be used to assist handicapped families in accordance with section 202(h) (2), (3) and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q), and $20,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242) and the immediately aforementioned $20,000,000 shall not become available for obligation until July 1, 1989, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition cost of public housing (excluding public housing for Indian families), for modernization of existing public housing projects (excluding such projects for Indian families), and for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1989, shall be rescinded: *Provided further,* That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: *Provided further,* That amounts equal to recaptured amounts for housing development grants shall be made available during 1989 on the terms specified in the sixth proviso under this head in the Department of Housing and Urban Development appropriation for 1987 (section 101(g) of Public Laws 99-500 and 99-591, 100 Stat. 1783, 1783-242, and 3341, 3341-242).

—$303,500,000
(rescission)

[*Total, annual contributions for assisted housing (net), $7,235,265,000.*]

RENTAL REHABILITATION GRANTS

For the rental rehabilitation grants program, pursuant to section 17(a)(1)(A) of the Housing Act of 1937, as amended (42 U.S.C. 1437o), $150,000,000, to remain available until September 30, 1991. 150,000,000

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z–1) is reduced in fiscal year 1989 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

−$50,000,000 *(rescission of contract authority, indefinite)*
−2,000,000 (limitation on annual contract authority, indefinite)

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In fiscal year 1989, $480,106,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided,* That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further,* That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further,* That 25 percent of the direct loan authority provided herein shall be used only for the purpose of providing loans for projects for the handicapped, with the mentally ill homeless handicapped receiving priority: *Provided further,* That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further,* That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further,* That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1989 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

480,106,000 (limitation on direct loans)

418,580,000 *(authority to borrow)*

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, $5,400,000, to remain available until September 30, 1990.

5,400,000

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $1,617,508,000.

1,617,508,000

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as

may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii), section 106(a)(2), and section 106(c) of the Housing and Urban Development Act of 1968, as amended, $3,500,000. $3,500,000

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z–1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, all uncommitted balances of excess rental charges as of September 30, 1988, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1989, to remain available until expended: *Provided,* That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77, 101 Stat. 482, 495), $46,500,000, to remain available until expended. 46,500,000

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77, 101 Stat. 482, 498), $80,000,000, to remain available until expended. 80,000,000

INTERAGENCY COUNCIL ON THE HOMELESS

For necessary expenses of the Interagency Council on the Homeless, not otherwise provided for, as authorized by title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311–11319), $1,100,000, to remain available until expended: *Provided,* That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act only through detail, on a non-reimbursable basis, of employees of the departments and agencies represented on the Council pursuant to section 202(a) of such Act. 1,100,000

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z–3(b) and 1735c(f)), $237,720,000, to remain available until expended. 237,720,000

During fiscal year 1989, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1989, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $96,000,000,000. *$96,000,000,000 (limitation on guaranteed loans)*

During fiscal year 1989, gross obligations for direct loans of not to exceed $103,350,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved. *103,350,000 (limitation on direct loans)*

NONPROFIT SPONSOR ASSISTANCE

During fiscal year 1989, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $960,000. *960,000 (limitation on direct loans)*

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During fiscal year 1989, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $144,000,000,000 of loan principal. *144,000,000,000 (limitation on guaranteed loans)*

[*Total, Housing Programs (net), $9,745,573,000.*]

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $3,000,000,000, to remain available until September 30, 1991, of which $200,000,000 shall be derived by transfer from the unobligated balances in the "Rehabilitation loan fund" and $150,000,000 shall be derived by transfer from the unobligated balances in the "Flexible subsidy fund": *Provided*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds set aside in the following proviso) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further*, That $5,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a child care demonstration under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z–6 note): *Provided further*, That $2,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a neighborhood development demonstration under section 123 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98–181). 2,650,000,000 *200,000,000 (by transfer)* *150,000,000 (by transfer)*

During fiscal year 1989, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $144,000,000 of contingent liability for loan principal. *144,000,000 (limitation on guaranteed loans)*

For purposes of administering its community development block grant program for nonentitlement areas under section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)), the State of Pennsylvania may, with respect to funds provided in appropriations Acts for fiscal years 1987 and 1988, continue to utilize the data on low and moderate income populations that were utilized by the State with respect to funds provided in appropriations Acts for fiscal year 1986.

Section 105(c)(2)(A) of the Housing and Community Development Act of 1974 is amended by striking out "or" immediately before "(ii)" and inserting at the end thereof before the period the following:

"; or (iii) the assistance for such activity is limited to paying assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement".

REHABILITATION LOAN FUND

During fiscal year 1989, collections, unexpended balances of prior appropriations (including any recoveries of prior reservations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1988, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act: *Provided,* That none of the funds in this Act may be used to sell any loan asset that the Secretary holds as evidence of indebtedness under such section 312.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Administrator of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Administrator of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, $13,200,000, to remain available until expended. $13,200,000

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

All funds recaptured from the amount appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1988 (section 101(f), Public Law 100-202) to remain available until September 30, 1989, shall likewise remain available to the Department of Housing and Urban Development for obligation until September 30, 1989.

[*Total, Community Planning and Development, $2,663,200,000*]

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $17,200,000, of which not less than $1,200,000 shall be available for lead-based paint studies, with all funds to remain available until September 30, 1990. 17,200,000

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as

amended, and section 561 of the Housing and Community Development Act of 1987, $10,000,000, to remain available until September 30, 1990: *Provided,* That not less than $5,000,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987. $10,000,000

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $4,000 for official reception and representation expenses, $716,609,000, of which $381,528,000 shall be provided from the various funds of the Federal Housing Administration: *Provided,* That during fiscal year 1989, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,365 for Public and Indian Housing Programs. 335,081,000 *381,528,000 (corporate funds)*

ADMINISTRATIVE PROVISIONS

Section 119(d)(5) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(C) Notwithstanding any other provision of this section, in each competition for grants under this section, no city or urban county may be awarded a grant or grants in an amount in excess of $10,000,000 until all cities and urban counties which submitted fundable applications have been awarded a grant. If funds are available for additional grants after each city and urban county submitting a fundable application is awarded one or more grants under the preceding sentence, then additional grants shall be made so that each city or urban county that has submitted multiple applications is awarded one additional grant in order of ranking, with no single city or urban county receiving more than one grant approval in any subsequent series of grant determinations within the same competition.

"(D) All grants under this section, including grants to cities and urban counties described in subsection (b)(2), shall be awarded in accordance with subparagraph (C) so that all grants under this section are made in order of ranking.".

None of the funds provided in this Act or heretofore provided may be used to implement or enforce the regulations promulgated by the Department of Housing and Urban Development on June 6, 1988, with respect to the testing and abatement of lead-based paint in public housing until the Secretary develops comprehensive technical guidelines on reliable testing protocols, safe and effective abatement techniques, cleanup methods, and acceptable post-abatement lead dust levels.

[Total, title I, Department of Housing and Urban Development:

[New budget (obligational) authority (net)	*$12,771,054,000.]*
[Appropriations	*12,705,974,000.]*
[Authority to borrow	*418,580,000.]*
[Rescissions	*−353,500,000.]*
[By transfer	*350,000,000.]*
[Limitation on annual contract authority, indefinite	*−2,000,000.]*
[Limitation on direct loans	*584,416,000.]*
[Limitation on guaranteed loans	*240,144,000,000.]*
[Limitation on corporate funds	*381,528,000.]*

TITLE II

INDEPENDENT AGENCIES

American Battle Monuments Commission

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $15,085,000, of which $829,000 shall be deposited in the account known as the "Foreign Currency Fluctuations, American Battle Monuments Commission Account", authorized by section 345, Public Law 100-322: *Provided,* That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further,* That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further,* That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further,* That section 409 of the general provisions carried in title IV of this Act shall not apply to the funds provided under this heading: *Provided further,* That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal Travel regulations. $15,085,000

Consumer Product Safety Commission

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and not to exceed $500 for official reception and representation expenses, $34,500,000: *Provided,* That no more than $308,500 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission appointed pursuant to 15 U.S.C. 2053. 34,500,000

Department of Defense—Civil

Cemeterial Expenses, Army

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and

Soldiers' and Airmen's Home National Cemetery, including the purchase of three passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses; $13,195,000, to remain available until expended. $13,195,000

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $25,000 per project; and not to exceed $3,000 for official reception and representation expenses; $804,000,000: *Provided,* That of the total sums appropriated, the amount of program activities which can be financed by the licensing and other services special fund shall be derived from that fund: *Provided further,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913). 804,000,000

RESEARCH AND DEVELOPMENT

For research and development activities, $202,500,000, to remain available until September 30, 1990: *Provided,* That not more than $2,000,000 of these funds shall be available for replacement of laboratory equipment. 202,500,000

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, $715,625,000, to remain available until September 30, 1990: *Provided,* That not more than $2,500,000 shall be available for administrative expenses to carry out the Asbestos School Hazards Abatement Act of 1984, as amended: *Provided further,* That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949). 715,625,000

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $8,000,000, to remain available until expended. 8,000,000

[*Subtotal, operating programs, $1,730,125,000.*]

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $1,425,000,000, to be derived from the Hazardous Substance Superfund, consisting of $1,275,000,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and $150,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, with all of such funds to remain available until expended: *Provided,* That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA, as amended: *Provided further,* That, notwithstanding section 111(m) of CERCLA, as amended, or any other provision of law, not to exceed $44,500,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further,* That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA, as amended, during fiscal year 1989: *Provided further,* That no more than $190,000,000 of these funds shall be available for administrative expenses. $1,425,000,000

190,000,000 (limitation on administrative expenses)

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, $50,000,000, to remain available until expended: *Provided,* That no more than $5,000,000 shall be available for administrative expenses. 50,000,000

5,000,000 (limitation on administrative expenses)

CONSTRUCTION GRANTS

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $1,950,000,000, to remain available until expended, of which $941,000,000 shall be for title II (other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209) of the Federal Water Pollution Control Act, as amended; $941,000,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $68,000,000 shall be for title V of the Water Quality Act of 1987, consisting of $20,000,000 for section 510, $3,000,000 for section 512, $25,000,000 for section 513, and $20,000,000 for section 515. 1,950,000,000

ADMINISTRATIVE PROVISION

None of the funds in this Act shall be available for any indemnity payment under section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act.

[*Total, Environmental Protection Agency, $5,155,125,000.*]

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their

functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $850,000: *Provided,* That not to exceed $290,000 of these funds shall be available for obligation in the first four months of fiscal year 1989. $850,000

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $1,587,000: *Provided,* That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it: *Provided further,* That not to exceed $400,000 of these funds shall be available for obligation in the first four months of fiscal year 1989. 1,587,000

[*Total, Executive Office of the President, $2,437,000.*]

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), $100,000,000, to remain available until expended. 100,000,000

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $1,500 for official reception and representation expenses, $137,274,000. 137,274,000

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $282,438,000. 282,438,000

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $10,178,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $43,200,000 shall, upon enactment of this Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $2,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1990. In fiscal year 1989, no funds in excess of (1) $36,000,000 for operating expenses, (2) $169,003,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $114,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation. $114,000,000

[*Total, Federal Emergency Management Agency, $633,712,000.*]

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,354,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,200,000. Administrative expenses of the Consumer Information Center in fiscal year 1989 shall not exceed $1,736,000. Appropriations, revenues and collections accruing to this fund during fiscal year 1989 in excess of $5,200,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts. 1,354,000

1,736,000 (limitation on administrative expenses)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,708,000. 1,708,000

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and

personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $4,191,700,000, to remain available until September 30, 1990, of which $900,000,000 is for the space station program only: *Provided*, That $515,000,000 of the $900,000,000 for the space station program shall not become available for obligation until May 15, 1989, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That the aforementioned $515,000,000 shall become available unless the President submits a special message after February 1, 1989, notifying the Congress that such funds will not be made available for the space station program. $4,191,700,000

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (H.R. 2783), as enacted under the provision of section 101(f) of Public Law 100-202, an Act making further continuing appropriations for the fiscal year ending September 30, 1988, $25,000,000 are rescinded. −25,000,000 *(rescission)*

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $4,364,200,000: *Provided*, That, notwithstanding any provision of this or any other Act, not to exceed $100,000,000 may be transferred to the National Aeronautics and Space Administration in fiscal year 1989 from any funds appropriated to the Department of Defense and such funds may only be transferred to the "Space flight, control and data communications" appropriation for space shuttle operations: *Provided further*, That the transfer limitation in the immediately preceding proviso shall not apply to funds transferred for advanced launch systems or under existing reimbursement arrangements: *Provided further*, That the funds appropriated under this heading are, together with funds permitted to be transferred hereunder, to remain available until September 30, 1990. 4,364,200,000

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $270,100,000, to remain available until September 30, 1991: *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further*, That no amount appropriated pursuant to this or any other Act may be used for the lease or 270,100,000

construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further,* That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities: *Provided further,* That in addition to sums otherwise provided by this paragraph, an additional $20,000,000, to remain available until expended: *Provided further,* That up to $30,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for "Research and development" and/or "Research and program management". $20,000,000

[*Total, construction of facilities, $290,100,000.*]

SCIENCE, SPACE, AND TECHNOLOGY EDUCATION TRUST FUND

There is appropriated, by transfer from funds appropriated in this Act for "Construction of facilities", the sum of $15,000,000 to the "Science, Space, and Technology Education Trust Fund" which is hereby established in the Treasury of the United States: *Provided,* That the Secretary shall invest such funds in the United States Treasury special issue securities, that such interest shall be credited to the Trust Fund on a quarterly basis, and that such interest shall be available for the purpose of making grants for programs directed at improving science, space, and technology education in the United States: *Provided further,* That the Administrator of the National Aeronautics and Space Administration, after consultation with the Director of the National Science Foundation, shall review applications made for such grants and determine the distribution of such available funds on a competitive basis: *Provided further,* That such grants shall be made available to any awardee only to the extent that said awardee provides matching funds from non-Federal sources to carry out the program for which grants from this Trust Fund are made: *Provided further,* That of the funds made available by this Trust Fund, $250,000 shall be disbursed each calendar quarter for a ten-year period to the Challenger Center for Space Science Education: *Provided further,* That the Administrator of the National Aeronautics and Space Administration shall submit to the Congress an annual report on the grants made pursuant to this paragraph. *15,000,000 (by transfer)*

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards; lease, hire, purchase of one aircraft for replacement only (for which partial payment may be made by exchange of at least one existing administrative aircraft and such other existing aircraft as may be considered appropriate), maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $1,855,000,000: *Provided,* That contracts may be entered into under this appropriation for 1,855,000,000

maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

[*Total, National Aeronautics and Space Administration, (net) $10,676,000,000.*]

National Credit Union Administration

CENTRAL LIQUIDITY FACILITY

During fiscal year 1989, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1989 shall not exceed $880,000.

$600,000,000 (limitation on direct loans)

880,000 (limitation on corporate funds)

National Science Foundation

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of one aircraft; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $1,583,000,000, to remain available until September 30, 1990: *Provided,* That of the funds appropriated in this Act, $900,000 shall be available only for the International Institute for Applied Systems Analysis, and that, notwithstanding any other provision of law, the Director may choose not to obligate these funds for that purpose: *Provided further,* That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than $90,550,000 shall be available for program development and management in fiscal year 1989: *Provided further,* That none of the funds appropriated in this Act may be used, directly or through grants, contracts, or other awards mechanisms, for agreements executed after enactment of this Act, to pay or to provide reimbursement for the Federal portion of the salary of any individual functioning as a Federal employee at more than the daily equivalent of the maximum rate paid for ES–6 for assignments to Senior Executive Service positions, unless specifically authorized by law: *Provided further,* That notwithstanding the preceding proviso, none of the funds appropriated in this Act may be used to pay the salary of any individual functioning as a Federal employee, or any other individual, through a grant or grants at a rate in excess of $95,000 per year: *Provided further,* That contracts may be entered into under the program development and management limitation in fiscal year 1989 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That of the funds appropriated

1,583,000,000

90,550,000 (limitation on administrative expenses)

in this Act, not more than $73,480,000 shall be available for advanced scientific computing, networking and communications research and infrastructure: *Provided further,* That none of the funds appropriated in this Act may be made available for a new academic research facilities program: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $1,000 for official reception and representation expenses; $131,000,000, to remain available until expended: *Provided,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation: *Provided further,* That no funds in this account shall be used for the purchase of aircraft other than ones transferred from other Federal agencies: *Provided further,* That no funds in this Act shall be used to acquire or lease a research vessel with ice-breaking capability built by a shipyard located in a foreign country if such a vessel of United States origin can be obtained at a cost no more than 50 per centum above that of the least expensive technically acceptable foreign vessel bid: *Provided further,* That, in determining the cost of such a vessel, such cost be increased by the amount of any subsidies or financing provided by a foreign government (or instrumentality thereof) to such vessel's construction: *Provided further,* That a new competitive solicitation for such vessel shall be conducted: *Provided further,* That if the vessel contracted for pursuant to the foregoing is not available for the 1989–1990 austral summer Antarctic season, a vessel of any origin may be leased for a period of not to exceed 120 days for that season and each season thereafter until delivery of the new vessel: *Provided further,* That the preceding four provisos shall not apply to appropriated funds used for the lease of the vessel POLAR DUKE. $131,000,000

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science and engineering education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $171,000,000, to remain available until September 30, 1990: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally. 171,000,000

[*Total, National Science Foundation, $1,885,000,000.*]

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $19,494,000. $19,494,000

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $26,313,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States. 26,313,000

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $14,759,100,000, to remain available until expended. 14,759,100,000

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34–36, 39, 51, 53, 55, and 61), $597,600,000, to remain available until expended. 597,600,000

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $9,220,000, to remain available until expended. 9,220,000

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and

equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); $10,542,546,000, plus reimbursements: *Provided,* That $13,252,000 of the foregoing amount shall be available for a pilot program of community-based residential care for homeless chronically mentally ill and other veterans: *Provided further,* That, during fiscal year 1989, jurisdictional average employment shall not exceed 38,000 for administrative support: *Provided further,* That, notwithstanding any other provision in this Act, a supplemental budget request may be transmitted to maintain the personnel level mandated by this Act. $10,542,546,000

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law, to remain available until September 30, 1990, $210,241,000, plus reimbursements. 210,241,000

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $47,909,000, plus reimbursements. 47,909,000

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $3,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of six passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $774,316,000, including $512,359,000 for the Department of Veterans Benefits: *Provided,* That, during fiscal year 1989, jurisdictional average employment shall not be less than 12,898 for the Department of Veterans Benefits. 774,316,000

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, where the estimated cost of a project is $2,000,000 or more or where funds for a project were made available in a previous major project appropriation, $363,040,000, to remain available until expended: *Provided,* That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall 363,040,000

be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further,* That funds provided in the appropriation "Construction, major projects" for fiscal year 1989, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1989, and (2) by the awarding of a construction contract by September 30, 1990: *Provided further,* That the Administrator shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further,* That no funds from any other account, except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Veterans Administration of the project or any part thereof with respect to that part only: *Provided further,* That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Veterans Administration medical facility must certify that the design of such project is acceptable from a patient care standpoint: *Provided further,* That not to exceed $8,000,000 of the funds available shall be used for the settlement of contractors' claims arising from the construction of a replacement hospital at the Veterans Administration Medical Center, Bronx, New York: *Provided further,* That not to exceed $2,600,000 of the funds available shall be used for the payment of sales and use tax to the State of Washington due on prior construction projects funded by this and other accounts, in lieu of payment to contractors of these tax costs which were not included in the contracts for these projects: *Provided further,* That the Veterans Administration shall, from funds previously appropriated for the replacement and modernization of the hospital at Allen Park, Michigan, immediately proceed with the planning, site acquisition, site preparation, and design of a new hospital in downtown Detroit, Michigan, which contains not less than 503 hospital beds.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $2,000,000, $111,596,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $2,000,000: *Provided,* That not more than $41,731,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further,* That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Veterans Administration which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

$111,596,000

41,731,000 (limitation on administrative expenses)

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), $26,000,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009 except operations and maintenance costs which will be funded from "Medical care". $26,000,000

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031–5037), $42,000,000, to remain available until September 30, 1991. 42,000,000

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1990. 500,000

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by law (38 U.S.C. 1008), $9,000,000, to remain available until September 30, 1991. 9,000,000

DIRECT LOAN REVOLVING FUND

During 1989, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37). *1,000,000 (limitation on direct loans)*

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $658,000,000, to remain available until expended. 658,000,000

During 1989, the resources of the loan guaranty revolving fund shall be available for expenses for property acquisitions and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided*, That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1989, for transfer to the loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1989, with the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1989 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Veterans Administration for 1989 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

Appropriations available to the Veterans Administration for fiscal year 1989 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1988.

[*Total, Veterans Administration, $28,151,068,000.*]

[*Total, title II, Independent Agencies:*

[*New budget (obligational) authority (net)*	*$46,614,991,000.*]
[*Appropriations*	*46,639,991,000.*]
[*Rescission*	*−25,000,000.*]
[*By transfer*	*15,000,000.*]
[*Limitation on administrative expenses*	*329,017,000.*]
[*Limitation on direct loans*	*601,000,000.*]
[*Limitation on corporate funds*	*880,000.*]

TITLE III

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development and the Federal Home Loan Bank Board which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1989 for such corporation or agency except as hereinafter provided: *Provided,* That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

$31,942,000 (limitation on corporate funds)

Not to exceed a total of $31,942,000 shall be available for administrative expenses of the Federal Home Loan Bank Board for procurement of services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accordance with law (5 U.S.C. 5901–5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board revolving fund and receipts of the Board for the current fiscal year, of which not to exceed $800,000 shall be available for purposes of training State examiners and not to exceed $1,500 shall be available for official reception and representation expenses: *Provided,* That members and alternates of the Federal Savings and Loan Advisory Council may be compensated subject to the provisions of section 7 of the Federal Advisory Committee Act, and shall be entitled to reimbursement from the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703. *Provided further,* That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of 1932, as amended (12 U.S.C. 1421–1449).

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

1,667,000 (limitation on corporate funds)

Not to exceed $1,667,000 shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to sections 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Federal home loan banks, the Federal Reserve banks, the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided,* That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724–1730f).

[*Total, title III, Corporations (limitation on corporate funds), $33,609,000.*]

TITLE IV

GENERAL PROVISIONS

SECTION 401. Where appropriations in titles I and II of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not

exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further,* That if appropriations in titles I and II exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitation.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not

specificially solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS–18, unless specifically authorized by law.

SEC. 409. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations.

SEC. 410. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 411. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 412. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 413. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 414. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 415. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

This Act may be cited as the "Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989".

Approved August 19, 1988.

LEGISLATIVE HISTORY—H.R. 4800

HOUSE REPORTS: No. 100-701 (Comm. on Appropriations) and No. 100-817 (Comm. of Conference).
SENATE REPORT No. 100-401 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 14, reported in the House.
June 22, considered and passed House.
June 24, reported in the Senate.
July 12 and 13, considered and passed Senate, amended.
Aug. 3, conference report filed in the House.
Aug. 9, House agreed to conference report; receded and concurred in Senate amendment, in others with amendments. Senate agreed to conference report; concurred in House amendments.

Grand total:		
New budget (obligational) authority (net)	$59,386,045,000	
Appropriations	(59,345,965,000)	
Authority to borrow	(418,580,000)	
Rescissions	(−378,500,000)	
By transfer	*(365,000,000)*	
Limitation on administrative expenses	*(329,017,000)*	
Limitation on annual contract authority, indefinite	*(−2,000,000)*	
Limitation on direct loans	*(1,185,416,000)*	
Limitation on guaranteed loans	*(240,144,000,000)*	
Limitation on corporate funds to be expended	*(416,017,000)*	
Total, new budget (obligational) authority, Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (net)		$59,386,045,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1989 contained in the foregoing annual appropriations act, the following additional amounts are available for the Department of Housing and Urban Development for the fiscal year:

Permanent appropriations:		
Federal funds (pp. 2226-2227)	$1,952,075,000	
Trust funds (p. 2244)	5,000	
Subtotal, additions		1,952,080,000

Deduct amounts for offices and independent agencies transferred to Defense—Civil functions, Department of Health and Human Services, and General Government totals:

Defense—Civil functions:		
Cemeterial expenses, Army (pp. 214-215)	$13,195,000	
Department of Health and Human Services:		
Office of Consumer Affairs (p. 218)	1,708,000	
General Government:		
American Battle Monuments Commission (p. 214)	15,085,000	
Consumer Product Safety Commission (p. 214)	34,500,000	
Environmental Protection Agency (pp. 215-216)	5,155,125,000	
Executive Office of the President (pp. 216-217)	2,437,000	
Federal Emergency Management Agency (pp. 217-218)	633,712,000	
General Services Administration—Consumer Information Center (p. 218)	1,354,000	
National Aeronautics and Space Administration (pp. 218-221)	10,676,000,000	
National Science Foundation (pp. 221-222)	1,885,000,000	
Neighborhood Reinvestment Corporation (p. 223)	19,494,000	
Selective Service System (p. 223)	26,313,000	
Veterans Administration (pp. 223-227)	28,151,068,000	
Subtotal, deductions		−46,614,991,000
Grand total, Department of Housing and Urban Development (net)		14,723,134,000

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Public Law 100-446

100th Congress, H.R. 4867

September 27, 1988

AN ACT

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $508,462,000, of which not to exceed $1,000,000 to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-6a(i)), $70,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1988, and $23,000,000 for the Automated Land and Mineral Record System Project shall remain available until expended: *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors: *Provided further,* That in fiscal year 1989 all but $742,000 of receipts, and thereafter all receipts from fees established by the Secretary of the Interior for processing of actions relating to the administration of the General Mining Laws shall be available for program operations in Mining Law Administration by the Bureau of Land Management to supplement funds otherwise available, to remain available until expended.

$508,462,000

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $5,431,000, to remain available until expended. $5,431,000

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901–07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses. The Payments in Lieu of Taxes Act (31 U.S.C. 6901(2)) is amended by deleting the phrase "existing in the State of Alaska on the date of enactment of this Act" from the definition of a unit of Government. 105,000,000

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94–579 including administrative expenses and acquisition of lands or waters, or interest therein, $12,290,000, to be derived from the Land and Water Conservation Fund, to remain available until expended. 12,290,000

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $60,000,000, to remain available until expended: 60,000,000
Provided, That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $8,506,000, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses. 8,506,000 *(indefinite)*

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and

termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended: *Provided,* That notwithstanding any provision to the contrary of subsection 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that subsection, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to subsection 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further,* That such moneys are in excess of amounts needed to repair damage to the exact land for which collected. $6,000,000 *(indefinite)*

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended. 100,000 *(indefinite)*

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $25,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further,* That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for surveys of Federal lands of the United States and for protection of lands for the State of Alaska: *Provided further,* That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further,*

That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau: *Provided further,* That notwithstanding section 5901(a) of title 5, United States Code, the uniform allowance for each uniformed employee of the Bureau of Land Management shall not exceed $400 annually.

[*Total, Bureau of Land Management, $705,789,000.*]

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $360,688,000, of which $5,000,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $6,811,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and which shall remain available until expended: *Provided,* That none of the funds provided herein may be used for the planning, implementation, or financing of agreements or arrangements with entities for the management of the Wynne complex on Matagorda Island, Texas, except for agreements or arrangements existing as of the date of enactment of this Act; and of which $1,500,000 shall remain available until expended for the development and installation of displays, exhibits, films, and other educational material for an ecological center, which will display the interdependency of fish and wildlife habitat upon each other and the need for informed public stewardship of these resources, including man's impact on freshwater and coastal streams, and which will be located on non-Federal land and be constructed by non-Federal participants. $360,688,000

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $31,834,000, to remain available until expended, of which $2,000,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g). 31,834,000

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $57,529,000, to be derived from the Land and Water Conservation 57,529,000

Fund, to remain available until expended: *Provided,* That of the funds provided to the United States Fish and Wildlife Service under the heading "Construction and Anadromous Fish" in Public Law 100-71, $1,200,000 shall be expended for the lease or purchase of water rights, from willing sellers, for the benefit of Stillwater Wildlife Management Area, Nevada: *Provided further,* That the lease or purchase shall be carried out pursuant to the statutory and procedural requirements of the laws of the State of Nevada, and the Secretary shall proceed with any such lease or purchase pursuant to this appropriation if and only if the Secretary receives certification from the State of Nevada that the transfer of water rights and associated change of use for the beneficial use of Stillwater Wildlife Management Area is approved by the State of Nevada.

The Secretary may acquire lands and waters or interests therein subject to the interest of the State of California, including the public trust, in lands including submerged lands which are now or at any time have been below the highest high water mark of the Sacramento River and/or its tributaries, in the event the boundary of said river has been artifically raised, or said lands are now or at any time have been below the ordinary high water mark of the Sacramento River, if said river and/or its tributaries is in its natural state; and further subject to any adverse claim based upon the assertion that (i) any portion of said lands is not now or has not at any time been below the highest high water mark of the Sacramento River and/or its tributaries, in the event the boundary of said river has been artificially raised, or is not now and has not at any time been below the ordinary high water mark, if said river and/or its tributaries is in its natural state; (ii) some portion of said lands has been created by artificial means or has accreted to such portion so created; or (iii) some portion of said lands has been brought within the boundaries thereof by an avulsive movement of the Sacramento River and/or its tributaries, or has been formed by accretion to any such portion.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $6,645,000. $6,645,000

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 160 passenger motor vehicles, of which 153 are for replacement only (including 46 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided,* That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft: *Provided further,* That hereafter the Columbian White Tail Deer Refuge shall be known as the Julia Butler Hansen Refuge for the Columbian White Tail Deer.

[*Total, United States Fish and Wildlife Service, $456,696,000.*]

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $442,000 for the Roosevelt Campobello International Park Commission and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $744,835,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $52,200,000 to remain available until expended is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100-203: *Provided,* That the National Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further,* That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use: *Provided further,* That funds appropriated to the National Park Service may be used for the purchase or hire of personnel services without regard to personnel laws as contained in title V of the United States Code, only to provide for the orderly transition from regional finance offices to a central finance office: *Provided further,* That of the funds provided herein, $250,000 is available for the National Institute for the Conservation of Cultural Property: *Provided further,* That no funds appropriated by this Act shall be available to remove, obstruct, dewater, fill, or otherwise damage the Brooks River fish ladder in the Katmai National Park, Alaska: *Provided further,* That where any Federal lands included within the boundary of the Park created by the Act of December 18, 1971 (Public Law 92-207), were legally occupied or utilized on the date of approval of that Act for grazing purposes pursuant to a lease, permit, or license issued or authorized by any department, establishment, or agency of the United States, the person or persons so occupying or utilizing such lands and the heirs of such person or persons shall at that time be entitled to renew said leases, permits, or licenses under such terms and conditions as the Secretary of the Interior may prescribe, for the lifetime of the permittee or any direct descendants (sons or daughters) born on or before the enactment of Public Law 92-207 (December 18, 1971). Such grazing activities shall be subject to the following conditions:

$744,835,000

(a) Grazing will be based on active preference that exists on the date of this Act and no increase in animal unit months will be allowed on Park lands.

(b) No physical improvements for stock use will be established on National Park Service lands without the written concurrence of the Park Superintendent.

(c) Nothing in this section shall apply to any lease, permit, or license for mining purposes or for public accommodations and services or to any occupancy or utilization of lands for purely temporary purposes.

(d) Nothing contained in this Act shall be construed as creating any vested right, title interest, or estate in or to any Federal lands.

(e) The provisions of Public Law 97-341 are hereby repealed.

(f) Grazing will be managed to encourage the protection of the Park's natural and cultural resources values.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $14,608,000. $14,608,000

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $30,500,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1990: *Provided,* That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further,* That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation: *Provided further,* That $1,000,000 of the amount appropriated herein shall remain available until expended in the Bicentennial Lighthouse Fund, to be distributed on a matching grant basis after consultation among the National Park Service, the National Trust for Historic Preservation, State Historic Preservation Officers from States with resources eligible for financial assistance, and the lighthouse community. Consultation shall include such matters as a distribution formula, timing of grant awards, a redistribution procedure for grants remaining unobligated longer than two years after the award date, and related implementation policies. The distribution formula for fiscal year 1989 shall include consideration of such factors as— 30,500,000

(A) the number of lighthouses on or determined to be eligible for listing on the National Register of Historic Places by March 30, 1989;

(B) the number of river lights and number of historic river sites on or determined to be eligible for listing on the National Register by March 30, 1989; and

(C) the availability of matching contributions in the State: *Provided further,* That no State shall receive more than 15 per centum of the Bicentennial Lighthouse Fund in any one fiscal year, nor more than 10 per centum of the total appropriations to the Fund in any two fiscal year period: *Provided further,* That only the light station structure, itself, shall be counted in determining the number of properties in each State eligible to participate in the Fund: *Provided further,* That the Secretary shall allocate appropriate funds from the Bicentennial Lighthouse Fund to be transferred, without the matching requirement, for use by Federal agencies, in cooperative agreements with the National Park Service and the State Office of Historic Preservation in which the property is located, for properties otherwise eligible for the National Register but owned by the Federal Government.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $159,108,000, to remain available until expended, including $1,450,000 to carry out the provisions of sections 302, 303, and 304 of Public Law 95-290: *Provided,* That for payment of obligations incurred for continued construction of the Cumberland 159,108,000

Gap Tunnel, as authorized by section 160 of Public Law 93-87, $47,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended. *$47,000,000 (liquidation of contract authority)*

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1989 by 16 U.S.C. 460l-10a is rescinded. *−30,000,000 (rescission of contract authority)*

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $72,609,000 to be derived from the Land and Water Conservation Fund, to remain available until expended, including $3,300,000 to administer the State Assistance program: *Provided,* That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, $357,000 shall be available in 1989 for administrative expenses of the State grant program: *Provided further,* That $3,000,000 of the funds made available herein shall be available for land acquisition at Congaree Swamp National Monument, South Carolina, subject to enactment of authorizing legislation: *Provided further,* That notwithstanding the provisions of Public Law 95-625, the Secretary may initiate condemnation with the consent of the owner of property, improved or unimproved, within the boundary or at a currently authorized administrative site of the New River Gorge National River, West Virginia. 72,609,000

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $5,181,000: *Provided,* That contracts hereafter awarded for environmental systems, housekeeping, protection systems, and repair or renovation of buildings of the John F. Kennedy Center for the Performing Arts may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price. 5,181,000

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000. 250,000

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

For expenses necessary to pay awards resulting from claims by licensees against the American Revolution Bicentennial Administration and its successors, $4,765,000: *Provided,* That payment of awards shall occur no later than 30 days after enactment of this Act. 4,765,000

NATIONAL FILM PRESERVATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Film Preservation Board in the Library of Congress, $250,000: *Provided,* That the following may be cited as the "National Film Preservation Act of 1988": 250,000

The Congress finds that—

(1) motion pictures are an indigenous American art form that has been emulated throughout the world;

(2) certain motion pictures represent an enduring part of our Nation's historical and cultural heritage; and

(3) it is appropriate and necessary for the Federal Government to recognize motion pictures as a significant American art form deserving of protection.

SEC. 2. NATIONAL FILM REGISTRY.

The Librarian of Congress (hereafter in this Act referred to as the "Librarian") shall establish a National Film Registry pursuant to the provisions of this Act, for the purpose of registering films that are culturally, historically, or aesthetically significant.

SEC. 3. DUTIES OF LIBRARIAN OF CONGRESS.

(a) POWERS.—(1) The Librarian shall, after consultation with the Board established pursuant to section 8, and pursuant to the rulemaking procedures provided in subchapter II of chapter 5 of title 5, United States Code, known as the Administrative Procedures Act—

(A) establish criteria for guidelines pursuant to which such films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first theatrical release;

(B) establish a procedure whereby the general public may make recommendations to the Board regarding the inclusion of films in such National Film Registry; and

(C) establish general guidelines so that film owners and distributors are able to determine whether a version of a film registered on the National Film Registry which is in their possession has been materially altered.

(2) In addition, the Librarian shall—

(A) determine, from time to time, after consultation with the Board, which films satisfy the criteria developed pursuant to paragraph (1)(A) and qualify to be included in the National Film Registry, except that the Librarian shall not select more than 25 films per year for inclusion in such Registry;

(B) convene, from time to time, a panel of experts, as provided in subsection (b), solely to advise the Board on whether it is necessary to petition Congress to revise the definition of "material alteration";

(C) provide a seal to indicate that the film has been included in the National Film Registry as an enduring part of our national cultural heritage and such seal may then be used in the promotion of any version of such film that has not been materially altered; and

(D) have published in the Federal Register the name of each film that is selected for inclusion in the National Film Registry.

(3)(A) The Librarian shall submit annual reports to the appropriate Committees of the Congress listing films included on the National Film Registry and describing the criteria used in determining why specific films were included in the National Film Registry.

(B) The first such report shall be submitted within 12 months after the date of enactment of this Act.

(b) COMPOSITION OF PANEL.—The panel provided for in subsection (a)(2)(B) shall be chosen by the Librarian. It shall be comprised of four persons, one representative each from the Motion Picture Association of America and the National Association of Broadcasters, and one representative of the Directors Guild of America and one representative of the Screen Actors Guild of America. The Presidents of these four organizations shall recommend three nominees to serve on such panel.

(c) APPEALS TO THE LIBRARIAN.—(1) The owner, exhibitor, or distributor of a film may appeal to the Librarian—

(A) objecting to the Board's recommendation of such film for inclusion in the National Film Registry; or

(B) the determination that a version of a film which is included in the National Film Registry has been materially altered.

(2) The Librarian shall refer such appeals to the Board for its recommendation.

(c) REGISTRY COLLECTION.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of an original version of each film included in the National Film Registry. All films so received by the Librarian shall be maintained in a special collection in the Library of Congress to be known as the "National Film Board Collection". The Librarian shall, by regulation, provide for reasonable access to films in such collection.

SEC. 4. LABELING REQUIREMENTS.

(a) LABEL REQUIRED.—Except as otherwise provided in this section, no person shall knowingly distribute or exhibit to the public a materially altered version of a film included in the National Film Registry unless the version is labeled as required by this section.

(b) EFFECTIVE DATE OF LABEL.—Except as provided in subsection (c), any labeling requirement established pursuant to this section shall be effective 45 days after publication in the Federal Register indicating that a film has been selected for inclusion in the National Film Registry.

(c) EXCEPTIONS.—With respect to films intended for home use through either retail purchase or rental, the provisions of subsection (b) shall apply, however no requirements imposed under this section shall apply to—

(1) a film which has been packaged for distribution prior to the effective date of such requirement with respect to such film, except that the provisions of this paragraph shall not apply if the packaging has been accelerated in contemplation of imposition of such requirement; or

(2) a retail distributor of films for home use, other than a manufacturer or packager, who has in good faith relied on compliance with the provisions of this Act by the manufacturer, wholesaler, or packager of a film.

(d) REQUIREMENTS OF THE LABEL.—(1)(A) A label for a materially altered version of a film, other than a colorized version, shall consist of a panel card immediately preceding the commencement of the film which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film.".

(B) Such a label shall appear in a conspicuous and legible type.

(2)(A) A label for a colorized version of a film shall consist of a panel card immediately preceding the commencement of the film which bears the following statement:

"This is a colorized version of a film originally marketed and distributed to the public in black and white. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film.".

(B) Such a label shall appear in a conspicuous and legible type.

(3)(A) A label for a film package of a materially altered film, other than a colorized version, shall consist of—

(i) an area of a rectangle on the front of the package which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."; and

(ii) an area of a rectangle on the side of the package which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. See front panel.".

(B) Such labels shall appear in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

(4)(A) A label for a film package of a colorized version of a film shall consist of—

(i) an area of a rectangle on the front of the package which bears the following statement:

"This is a colorized version of a film originally marketed and distributed to the public in black and white. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."; and

(ii) an area of a rectangle on the side of the package which bears the following statement:

"This is a colorized version of original work. See front panel.".

(B) Such labels shall appear in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

SEC. 5. MISUSE OF SEAL.

No person shall knowingly distribute or exhibit to the public a version of a film which bears a seal as described by section 3(a)(2)(C) of this Act if such film—

(1) is not included in the National Film Registry; or

(2) is included in the National Film Registry, but such version has been materially altered.

SEC. 6. REMEDIES.

(a) JURISDICTION AND STANDING.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of sections 4 and 5 of this Act upon the application of the Librarian to the Attorney General of the United States acting through the several United States Attorneys in their several districts.

(b) RELIEF.—(1) Except as provided in paragraph (2), relief shall be limited to the prospective inclusion or application of, or removal of, a label as appropriate.

(2) In the case in which the Librarian finds a pattern or practice of the willful violation of this Act, the United States District Courts may order civil fines of not more than $10,000 and appropriate injunctive relief.

SEC. 7. LIMITATIONS OF REMEDIES.

(a) The remedies provided in section 6 shall be the exclusive remedies under this Act or any other Federal or State law, regarding the use of a seal as described by section 3(a)(2)(C) or labeling of materially altered films.

(b) No remedies under section 6 of this title shall be available with respect to any film which is exempted from the labeling requirements of this Act pursuant to section 4(c).

SEC. 8. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be

comprised of thirteen members, selected by the Librarian in accordance with the provisions of this paragraph. Each organization listed in subparagraphs (A) through (M) shall submit a list of not less than 3 qualified candidates to the Librarian. The Librarian shall appoint one member from each such list submitted by the following organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend:

(A) the Academy of Motion Picture Arts and Sciences;
(B) the Directors Guild of America;
(C) the Writers Guild of America;
(D) the National Society of Film Critics;
(E) the Society for Cinema Studies;
(F) the American Film Institute;
(G) the Department of Theatre, Film and Television, College of Fine Arts at the University of California, Los Angeles;
(H) the Department of Cinema Studies in the Graduate School of Arts and Science at New York University;
(I) the University Film and Video Association;
(J) the Motion Picture Association of America;
(K) the National Association of Broadcasters;
(L) the Association of Motion Picture and Television Producers; and
(M) the Screen Actors Guild of America.

(2) Before the Librarian selects nominees for such Board, such Librarian shall request that each of the entities listed in paragraph (1) who do not currently have a nominee on such Board nominate three individuals to serve on such Board. No individual may serve on the Board for more than one term and each entity shall be represented a comparable number of times.

(b) CHAIRPERSON.—The Librarian shall appoint one member to serve as Chairperson.

(c) TERM OF OFFICE.—(1) The term of each member of the Board shall be 3 years.

(2) A vacancy in the Board shall be filled in the manner prescribed by the Librarian, except that no entity listed in subsection (a) may have more than one nominee on the Board at any one time. Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code. Any member appointed to fill a vacancy before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(d) QUORUM.—Seven members of the Board shall constitute a quorum but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(f) MEETINGS.—The Board shall meet at least twice each calendar year and the first such meeting shall be within 120 days after the effective date of this Act. Meetings shall be at the call of the Chairperson or a majority of its members.

(g) CONFLICT OF INTERESTS.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and responsibilities of the Board.

SEC. 9. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Chairperson of the Board may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Board may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–16 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS–15 of the General Schedule, and in no case may a Board member be paid as an expert or consultant.

SEC. 10. POWERS OF BOARD.

(a) IN GENERAL.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and consult with the Librarian with respect to the inclusion in the Registry, and with respect to the powers defined in section 3.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, producers, and film critics, film preservation organizations and representatives of academic institutions with film study programs. The Board shall not nominate more than 25 films a year for inclusion in the Registry.

SEC. 11. DEFINITIONS.

(a) DEFINITIONS FOR SECTIONS 1 THROUGH 13.—As used in sections 1 through 13:

(1) The term "Librarian" means the Librarian of Congress.

(2) The term "film" means a feature-length, theatrical motion picture after its first theatrical release.

(3) The term "film package" means the original box, carton or container of any kind in which a videotape or disc is offered for sale or rental.

(4) The term "Board" means the National Film Preservation Board.

(5) The term "material alteration" means to colorize or to make other fundamental post-production changes in a version of a film for marketing purposes but does not include changes made in accordance with customary practices and standards and reasonable requirements of preparing a work for distribution or broadcast.

(6) The term "to colorize" means to add color, by whatever means, to versions of motion pictures originally produced, marketed, or distributed in black and white.

(7) The term "colorization" means the process whereby a film is colorized.

(b) EXCLUSION FROM DEFINITION OF "MATERIAL ALTERATION".—Excluded from the definition of "material alteration" are practices such as the insertion of commercials and public service announcements for television broadcast.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

To carry out the purposes of this Act, there are authorized to be appropriated to the Librarian of Congress, such sums as may be necessary to carry out the purposes of this Act, but in no fiscal year shall such sum exceed $250,000.

SEC. 13. EFFECTIVE DATE.

The provisions of this Act shall be effective for three years beginning on the date of enactment of this Act. The provisions of this Act shall not apply to any copy of a film materially altered prior to such effective date if such copy of such film is owned by an individual for his personal use, in the inventory of the manufacturer or packager of a videocassette or already distributed to retail or wholesale distributors of videocassettes.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 360 passenger motor vehicles, of which 290 shall be for replacement only, including not to exceed 290 for police-type use and 26 buses; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided,* That no funds available to the National Park Service may be used, unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further,* That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further,* That notwithstanding any other provision of law, the National Park Service may recover unbudgeted costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

No funds shall be available for the National Park Service to issue any construction permit for the Potomac Greens interchange on the George Washington Memorial Parkway unless an Environmental

Impact Statement is conducted. The Environmental Impact Statement shall be commenced promptly and completed and filed within eighteen months of the date on which Public Law 100-202 was enacted. After completion and filing, the Environmental Impact Statement shall be transmitted to the appropriate Congressional Committees for a period of 60 days, during which time the National Park Service shall not issue any construction permit for the Potomac Greens interchange on the George Washington Memorial Parkway.

The Environmental Impact Statement shall review the traffic impact of only the proposed 38-acre development opposite Daingerfield Island west of the George Washington Memorial Parkway: *Provided,* That the National Park Service shall review the impact of the planned development on the visual, recreational and historical integrity of the Parkway.

The Environmental Impact Statement shall also provide an evaluation of alternative acquisition strategies to include but not be limited to appraisal estimates for the access rights, the entire 38-acre parcel, that portion of the 38-acre parcel as defined approximately by the historic district boundary line, and any other recommendations by the National Park Service to mitigate the Parkway degradation effects of the proposed development so as to adequately protect and preserve the Parkway. Such appraisals shall be prepared and filed as soon as is reasonably possible. The National Park Service solely shall determine the legal and factual sufficiency of the Environmental Impact Statement and its compliance with the National Environmental Policy Act of 1969.

The Environmental Impact Statement shall be separate from, independent of, and in no way intended to affect or modify any pending litigation. Notwithstanding any other provision of law, no court shall have jurisdiction to consider questions respecting the factual and legal sufficiency of the Environmental Impact Statement under the National Environmental Policy Act of 1969.

None of the funds in this Act may be used to issue a permit for seismic exploration of Big Cypress National Preserve, Florida, until an environmental impact statement has been completed: *Provided,* That such statement shall be completed within two years of the date of enactment of this Act.

None of the funds provided in this Act shall be available for an appeal to the February 26, 1988, special rate pay approved by the Office of Personnel Management for the United States Park Police.

The Director of the National Park Service shall administer a fellowship program, within available funds, to improve mutual understanding and cooperation between Service employees, and Members and Committees of Congress. The program is dedicated to the memory of Pietro Antonio (Tony) Bevinetto, and Service employees participating in the program shall be known as "Bevinetto Fellows".

[*Total, National Park Service (net), $1,002,106,000.*]

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and

publish and disseminate data relative to the foregoing activities; up to $500,000 for a 50 percent cost-shared scientific project for test and observation wells near Kohala, Hawaii: *Provided,* That upon enactment of this Act and hereafter, final costs related to the National Petroleum Reserve in Alaska may be paid from available prior year balances in this account, and $451,006,000, of which $58,800,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided further,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality. $500,000 451,006,000

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 19 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

[*Total, Geological Survey, $451,506,000.*]

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $170,744,000, of which not less than $35,000 shall be used by the Secretary to enter into a cooperative agreement with the State of Louisiana to carry out or conduct audit activities on any lease or portion of a lease subject only to section 8(g) of the Outer Continental Shelf Lands Act of 1953, as amended (43 U.S.C. 1337(g)): *Provided,* That notwithstanding the provisions of sections 201 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1731), sections 202 through 206 of that Act (30 U.S.C. 1732-1736) shall apply to any lease or portion of a lease subject to section 8(g) of the Outer Continental Shelf Lands Act: *Provided further,* That for purposes of those provisions and for no other purposes, such lease or portion of a lease shall be regarded as within the coastal State or States entitled to receive revenues from it under section 8(g), and of which not less than $52,302,000 shall be available for royalty management activities including general administration: *Provided further,* That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and 170,744,000

marine clean-up activities: *Provided further,* That of the above enacted amounts, $250,000 proposed for data gathering to help determine the boundary between State and Federal lands offshore of Alaska shall be available only if an equal amount is provided by the State of Alaska from State revenues to match the Federal support for this project.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $159,292,000, of which $91,010,000 shall remain available until expended: *Provided,* That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation. $159,292,000

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided,* That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; $101,095,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1989: *Provided,* That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1989 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further,* That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in NWR v. Miller, C.A. No. 86–99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program. 101,095,000

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, $193,160,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided,* That pursuant to Public Law 97–365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95–87, administrative expenses may not exceed 15 per centum: *Provided further,* That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further,* That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95–87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further,* That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95–87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95–87: *Provided further,* That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office: *Provided further,* That notwithstanding any other provisions of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may, hereafter, provide for the travel and per diem expenses of State and tribal personnel attending OSMRE sponsored training: *Provided further,* That the Secretary shall conduct a thorough accounting and reconciliation of the Abandoned Mine Reclamation Fund, under title IV of the Surface Mining Control and Reclamation Act of 1977, for the period from fiscal year 1977 through fiscal year 1988. This accounting and reconciliation shall determine, by State, the source of all contributions to the fund and shall denote all fund disbursements by purpose and fiscal year including letter of credit grants to States. $193,160,000

Funds authorized as grants to States shall be reconciled according to—

(1) the Surface Mining Control and Reclamation Act of 1977, including the 50 percent State share; and

(2) the formula for allocation of the discretionary share as expressed by the Office of Surface Mining Reclamation and Enforcement during each relevant fiscal year under review.

The findings of the Secretary shall be transmitted to the Committees on Appropriations by May 1, 1989. Such information shall not be used to amend or revise State allocations during fiscal year 1989.

[*Total, Office of Surface Mining Reclamation and Enforcement, $294,255,000.*]

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $992,767,000, of which not to exceed $71,004,000 for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1990, and of which $25,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1988, shall remain available until expended, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1990: *Provided,* That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $1,997,000, to remain available until expended: *Provided further,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further,* That $250,000 of the funds made available in this Act shall be available for cyclical maintenance of tribally owned fish hatcheries and related facilities: *Provided further,* That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: *Provided further,* That the Secretary shall take no action to close the school or dispose of the property of the Phoenix Indian School until the Congress has specifically approved the school closure or provided for disposition of the property in legislation: *Provided further,* That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled, and the tribe or individual has been

$992,767,000

provided with an accounting of such funds, and the appropriate committees of the Congress and the tribes have been consulted with as to the terms of the proposed contract or agreement: *Provided further,* That none of the funds in this Act shall be used to implement any regulations, or amendments to or revisions of regulations, relating to the Bureau of Indian Affairs' higher education grant program that were not in effect on March 1, 1987: *Provided further,* That $230,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation: *Provided further,* That if the actual amounts required in this account for costs of the Federal Employee Retirement System in fiscal year 1989 are less than amounts estimated in budget documents, such excess funds may be transferred to "Construction" and "Miscellaneous Payments to Indians" to cover the costs of the retirement system in those accounts: *Provided further,* That notwithstanding any other provision of law, concurrent with the opening of the Western Cheyenne River Consolidated School the following schools shall be permanently closed: Bridger Day School (Howes, SD); Cherry Creek Day School (Cherry Creek, SD); and the Red Scaffold School (Faith, SD): *Provided further,* That subsection (b) of section 5 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712c) is amended by striking out "Indian individuals" and inserting in lieu thereof "Cow Creek descendants or other Indian individuals":*Provided further,* That notwithstanding any other provision of law, the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be distributed on the basis of the formula recommended by the Assistant Secretary of Indian Affairs in a letter to the Committees on Appropriations dated June 27, 1988, except that for the fiscal year ending September 30, 1989, the minimum weight factor shall be 1.1 rather than 1.3 and for the fiscal year ending September 30, 1990, the minimum weight factor shall be 1.2 rather than 1.3: *Provided further,* That for the purpose of enabling Indian reservation residents in Arizona who are eligible for General Assistance and who have dependent children to participate and succeed in Job Corps training, the Bureau shall pay general assistance support for the dependent children at the full State AFDC A-2 grant level: *Provided further,* That notwithstanding any other provision of law, any portion of the funds appropriated under the authority of Public Law 93-530 not yet obligated, but not to exceed $700,000, shall be transferred by the Secretary of the Interior to the governing body of the San Carlos Apache Tribe (hereafter referred to as the "Tribe") by no later than the date that is sixty days after the date of enactment of this Act. Amounts transferred to the Tribe under this proviso shall be used for economic development purposes in accordance with the plan which was adopted by the governing body of the Tribe on April 12, 1988, and any amendment thereto which has been approved by the Secretary of the Interior. The Tribe may expend the amounts transferred under this proviso for the purposes authorized without the prior approval of the Secretary of the Interior. None of the funds transferred to the Tribe may be used to make per capita payments to the members of the Tribe: *Provided further,* That notwithstanding any other provision of law, the funds transferred by this Act to the San Carlos Apache Tribe may be treated as non-Federal, private funds of the Tribe for purposes of any provision of Federal law which requires that non-Federal or private funds be used in a project or for a specific purpose: *Provided further,* That the Federal Government shall have no further obligation to appropriate funds for the purposes indentified in Public Law 93-530.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $79,283,000, to remain available until expended: *Provided,* That $1,449,000 of the funds appropriated for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d–14(d)(3)), may be used for counseling, archeological clearances, and administration related to the relocation of Navajo families: *Provided further,* That $1,100,000 of the funds made available in this Act shall be available for rehabilitation of tribally owned fish hatcheries and related facilities: *Provided further,* That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation. $79,283,000

ROAD CONSTRUCTION

Not to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs.

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98–500, 99–264, and 99–503, including funds for necessary administrative expenses, $13,952,000, to remain available until expended, of which not to exceed $11,300,000 is made available to the Tohono O'Odham Nation for purposes authorized in the Gila Bend Indian Reservation Lands Replacement Act, Public Law 99–503. 13,952,000

REVOLVING FUND FOR LOANS

During fiscal year 1989, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed resources and authority available.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $3,370,000, to remain available until expended: *Provided,* That during fiscal year 1989, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974, as amended, may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available. 3,370,000

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits, and purchase of not to exceed 150 passenger carrying motor vehicles, of which not to exceed 115 shall be for replacement only.

[*Total, Bureau of Indian Affairs, $1,089,372,000.*]

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $92,767,000, of which (1) $89,741,000 shall be available until expended for technical assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $3,026,000 for salaries and expenses of the Office of Territorial and International Affairs: *Provided,* That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further,* That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further,* That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided further,* That $710,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation. $92,767,000

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $28,434,000 including $10,304,000 for payment of claims pursuant to the Micronesian Claims Act of 1971, to remain available until expended: *Provided,* That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further,* That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further,* That all Government operations funds appropriated and obligated for the Republic of Palau under this account for fiscal year 1989, shall be credited as an offset against fiscal year 1989 payments made pursuant to the legislation approving the Palau Compact of Free Association (Public Law 99-658), if such Compact is implemented 28,434,000

before October 1, 1989: *Provided further,* That any unobligated balances for Palau government operations which remain available on the date of Compact implementation shall be used by the Department of the Interior to reduce the accumulated deficit of the Trust Territory Government.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $32,360,000, including $2,500,000 for the Enjebi Community Trust Fund, to remain available until expended, as authorized by Public Law 99-239: *Provided,* That notwithstanding the provisions of Public Laws 99-500 and 99-591, the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99-658, shall be the effective date of the Palau Compact as determined pursuant to section 101(d) of Public Law 99-658: *Provided further,* That in full satisfaction of the obligation of the United States to provide funds to assist in the resettlement and rehabilitation of Bikini Atoll by the People of Bikini, to which the full faith and credit of the United States is pledged pursuant to section 103(l) of Public Law 99-239, the United States shall deposit $90,000,000 into the Resettlement Trust Fund for the People of Bikini established pursuant to Public Law 97-257, and governed pursuant to the terms of such trust instrument, such deposit to be installments of $5,000,000 on October 1, 1988; $22,000,000 on October 1, 1989; $21,000,000 on October 1, 1990; $21,000,000 on October 1, 1991; and $21,000,000 on October 1, 1992: *Provided further,* That the terms of such Resettlement Trust Fund are hereby modified to provide that corpus and income may be expended for rehabilitation and resettlement of Bikini Atoll, except that the Secretary may approve expenditures not to exceed $2,000,000 in any year from income for projects on Kili or Ejit: *Provided further,* That one year prior to completion of the rehabilitation and resettlement program, the Secretary of the Interior shall report to Congress on future funding needs on Bikini Atoll. Unless otherwise determined by Congress, following completion of the rehabilitation and resettlement program, funds remaining in the Resettlement Trust Fund in excess of the amount identified by the Secretary as required for future funding needs shall be deposited in the United States Treasury as miscellaneous receipts. Upon completion of those needs, the Resettlement Trust Fund shall be extinguished and all remaining funds shall be deposited in the United States Treasury as miscellaneous receipts. The payment and use of funds in accordance herewith is for the sole purpose of implementing and fulfilling the terms of the Section 177 Agreement referred to in section 462(d) of the Compact of Free Association between the United States and the Republic of the Marshall Islands, including Article VI, section 1, and Articles X and XII, thereof. Payments pursuant hereto shall be made only upon: One, voluntary dismissal with prejudice of Juda et al. v. the United States, No. 88-1206 (Fed. Cir.); and two, submission of written notice to the United States and the Republic of the Marshall Islands, executed by duly-authorized representatives acting on their behalf, that the People of Bikini accept the obligations and undertaking of the United States to make the payments prescribed by this Act, together with the other payments, rights, entitlements and benefits provided for under the Section 177 Agreement, as full satisfaction of all claims of the People of Bikini related in any way to the United States nuclear testing program in accordance with the terms of the Section 177 Agreement. $32,360,000

[*Total, Territorial Affairs, $153,561,000.*]

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of the Interior, $49,067,000, of which not to exceed $10,000 may be for official reception and representation expenses: *Provided,* That the National Park Service shall reissue a Notice of Proposed Rulemaking on the mandatory use of seatbelts while traveling on National Park Service roads within 30 days after the date of enactment of this Act. $49,067,000

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $24,686,000. 24,686,000

OFFICE OF INSPECTOR GENERAL

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $18,749,000. 18,749,000

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $1,800,000. 1,800,000

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 11 aircraft, 7 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided,* That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

[*Total, Departmental Offices, $94,302,000.*]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on lands under the jurisdiction of the Secretary,

pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided,* That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided,* That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: *Provided,* That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley: *Provided,* That no funds made available by this or any other Act shall be expended to exchange lands located within the boundaries of the Lake Mead National Recreation Area in Nevada in township 32 south, range 22 west, Mount Diablo Meridian.

SEC. 108. Notwithstanding any other provisions of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 109. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the ap-

proval or permitting of any drilling or other exploration activity, on lands within the Eastern Gulf of Mexico planning area of the Department of the Interior which lie south of 26 degrees North latitude and east of 86 degrees West longitude.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity within the area identified by the Department of the Interior in the Draft Environmental Impact Statement (MMS 87-0032) for Lease Sale 91 in the Northern California planning area issued December, 1987.

SEC. 112. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, preleasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands described in, and under the same terms and conditions set forth in section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190; or of lands within the 400 meter isobath surrounding Georges Bank, identified by the Department of the Interior as consisting of the following blocks: in protraction diagram NJ 19-2, blocks numbered 12-16, 54-55 and 57-58; in protraction diagram NK 19-5, blocks numbered 744, 788, 831-832, and 1005-1008; in protraction diagram NK 19-6, blocks numbered 489-491, 532-537, 574-576, 578-581, 618-627, 661-662, 664-671, 705-716, 749-761, 793-805, and 969-971; in protraction diagram NK 19-8, blocks numbered 37-40, 80-84, 124-127, and 168-169; in protraction diagram NK 19-9, blocks numbered 13-18, 58-63, 102-105, 107-108, 146-149, 151-152, 191-193, 195-197, 235-237, 240-242, 280-282, 284-286, 324-331, 368-376, 412-420, 456-465, 500-510, 543-554, 587-594, 596-599, 631-637, 640-644, 675-688, 718-733, 762-778, 805-821, 846-865, 887-891, 894-908, 930-950, and 972-994; in protraction diagram NK 19-10, blocks numbered 474-478, 516-524, 560-568, 604-612, 647-660, 692-704, 737-748, 787-792, 830-836, 873-880, 967-968, and 1011-1012; in protraction diagram NK 19-11, blocks numbered 621-632, 665-676, 700, 709-720, 744, 753-764, 785, 797-808, 825-827, 841-852, 856-860, 869, 890-905, 907-909, 929-931, 941-945, 947-949, 973-975, and 985-989; and in protraction diagram NK 19-12, blocks numbered 452-456, 495-499, 536-537, 539-541, 575-577, 579-582, 617-621, 623-624, 661-662, 664-665, and 705-706.

SEC. 113. Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the approval of permits for the acquisition of geologic and geophysical data in Outer Continental Shelf areas, except that exploratory drilling shall not be permitted by this provision in lands within the Eastern Gulf of Mexico Planning Area which lie south of 26 degrees North latitude and east of 86 degrees West longitude and for areas identified as the Northern California Planning Area and the Georges Bank-North Atlantic Planning Area out to 400 meters.

SEC. 114. Notwithstanding any other provision of law, and subject to valid existing rights, the Secretary of the Interior shall transfer to the Housing Authority, Clark County, Nevada, without consideration, all rights, title, and interest of the United States, in and to the land described as township 21 south, range 60 east, Mount Diablo Meridian, section 24, north half southwest quarter, Clark County Nevada, for use only as a mobile home park for low income senior citizens, reserving to the United States all minerals under applicable law and such regulations as the Secretary of the Interior may prescribe, and as required by the Act of August 30, 1890 (43 U.S.C. 945), a right-of-way thereon for ditches or canals constructed by the authority of the United States: *Provided*, That if such land ceases to be used as a mobile home park for low income senior citizens, all rights, title, and interest in and to such land shall revert to the United States.

SEC. 115. Section 103(h)(2) of the Compact of Free Association Act of 1985 (99 Stat. 1783, 48 U.S.C. 1681) is amended as follows: after the word "firm" insert "or by a grant to the Government of the Republic of the Marshall Islands which may further contract only with a United States firm or a Republic of the Marshall Islands firm, the owners, officers and majority of the employees of which are citizens of the United States or the Republic of the Marshall Islands"; and, after the word "Bikini" insert ", Rongelap, Utrik,".

SEC. 116. The Secretary of the Interior is authorized to guarantee a loan by the Federal Financing Bank to the Government of Guam, in amounts not to exceed $53,000,000, for water system improvements on Guam: *Provided*, That the conditions on such loan shall include but not be limited to the following: the Government of Guam shall place water rate-making authority in an independent public utility commission; a source of revenue for payment of the loan shall be identified, with such revenues placed in an escrow account in sufficient amounts to insure timely payment; and, should the Government of Guam default on the loan, the Secretary of the Interior shall deduct such sums as are in arrears from sums normally paid to the Government of Guam under section 1(c) of Public Law 95-348.

SEC. 117. Within currently available funds, the Secretary of the Interior is directed immediately to appoint and compensate an independent third party factfinder mutually agreed upon by the Secretary and the Governor of Louisiana, to make all appropriate factual findings relating to past drainage on State and Federal leases occurring along the boundary of the State of Louisiana and Federal waters. Such factual findings shall include—

(a) whether drainage of either United States or State hydrocarbons has occurred during the time period starting April 7, 1986 and ending on the date the factfinding proceeding is completed;

(b) the areas or reservoirs from which the drainage occurred;

(c) the quantity of recoverable hydrocarbons, determined on a volumetric basis, originally in place within such areas or reservoirs prior to any production therefrom;

(d) the respective percentages of such recoverable hydrocarbons within the Federal and State portions of such areas or reservoirs;

(e) the total accumulated volume of any net drainage from each area or reservoir, including the value thereof (together with a description of the method for determining such value) and all production costs incurred during that period;

(f) the net dollar impact to the United States, United States lessees, the State of Louisiana, and the State lessees that has resulted from any such drainage from each area or reservoir;

(g) the proper allocation of production from each field from all time periods starting April 7, 1986; and

(h) the proper prospective allocation of production from the fields involved.

Within 180 days of the date of enactment of this Act, the third party factfinder shall submit a written report containing the factual findings to the Secretary, the Governor of Louisiana, and the Congressional Committees of jurisdiction. The Secretary shall then prepare a plan 60 days after receipt of the written report regarding options for the potential redistribution of royalty receipts, if warranted by the findings of this written report.

[*Total, title I, Department of the Interior:*

[*New budget (obligational) authority (net)*	*$4,577,623,000.*]
[*Appropriations, definite*	*4,593,017,000.*]
[*Appropriations, indefinite*	*14,606,000.*]
[*Rescission of contract authority*	*−30,000,000.*]
[*Liquidation of contract authority*	*47,000,000.*]

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

Forest Service

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $137,867,000, to remain available until September 30, 1990. $137,867,000

The Secretary is directed to convey by quitclaim deed, without a requirement for reimbursement, all right, title, and interest of the United States in and to all improvements (1) situated on leased land as recorded in Docket 5191, pages 258–260, Maricopa Country, Arizona, and (2) situated on leased land as recorded in Docket 4388, pages 452–455 and Docket 4673, pages 147–148, Maricopa County, Arizona.

The Secretary is further directed, concurrently with conveyances under this section, to relinquish, without a requirement for reimbursement, that certain lease dated October 13, 1962, as amended on May 15, 1963, and that certain related Memorandum of Understanding of like date therewith (collectively referred to herein as the "lease agreement"), which instruments cover and pertain to the real property located on the campus of Arizona State University in Tempe, Arizona: *Provided,* That the United States is hereby released from any and all liability arising from the future use of the facilities or lands affected by this Act: *Provided further,* That the Forest Service shall continue to occupy the facilities described herein, at no increased expense, until such time as replacement space which is determined to be comparable by the Forest Service is available: *Provided further,* That the Forest Service may not move from the facilities described herein unless the move is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99–714.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $86,668,000, to remain available until expended, as authorized by law: *Provided,* That a grant of $2,800,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95–495: *Provided further,* That notwithstanding any other provision of law, a grant of $3,600,000 shall be provided to the Washington State Parks and Recreation Commission for construction of the Spokane River Centennial Trail, and a grant of $1,350,000 shall be provided to the County of Kootenai, Idaho, for construction of the Idaho Centennial Trail. 86,668,000

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for reimbursement to other appropriation accounts from which funds were transferred in the preceding fiscal years for forest firefighting and emergency rehabilitation of National Forest System lands, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,329,488,000 to remain available for obligation until September 30, 1,329,488,000

1990, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l-6a): *Provided,* That appropriations in this account remaining unobligated at the end of the fiscal year 1988, both annual and two-year funds, and which would otherwise be returned to the general fund of the Treasury, shall be merged with and made a part of the fiscal year 1989 National Forest System appropriation, and shall remain available for obligation until September 30, 1990: *Provided further,* That funds available for forest firefighting and emergency rehabilitation of National Forest System lands are available for liquidation of obligations made in preceding fiscal years.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $225,518,000, to remain available until expended, of which $33,914,000 is for construction and acquisition of buildings and other facilities; and $191,604,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided,* That funds becoming available in fiscal year 1989 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: *Provided further,* That not to exceed $75,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers: *Provided further,* That notwithstanding any other provision of this Act or any other provision of law, there is authorized and appropriated out of the Highway Trust Fund (other than the Mass Transit Account), $5,333,000 of contract authority to be transferred to the Forest Service for road construction to Forest Development Road Standards to serve the Mount St. Helens National Volcanic Monument, Washington: *Provided further,* That the funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of this project shall be 100 per centum, and such funds shall remain available until expended: *Provided further,* That $5,333,000 to be derived from the Highway Trust Fund (other than the Mass Transit Account) as authorized and appropriated above is hereby made available to liquidate the obligations incurred against the contract authority as provided for in this Act.

$225,518,000

−79,100,000 (timber receipt transfer to general fund, indefinite)

75,000,000 (timber purchaser credits)

5,333,000 (liquidation of contract authority)

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $63,805,000 to be derived from the Land and Water Conservation Fund, to remain available until expended and $400,000 for acquisition of land and interests therein and near the White Salmon National Recreational River, Klickitat County, Washington, described as Government lot 2, southwest quarter of the northwest quarter, section 18, township 4 north range 11 east, Willamette Meridian, pursuant to the Department of Agriculture Organic Act of 1956 (7 U.S.C. 428(a)), to remain available until expended.

63,805,000

400,000

Notwithstanding any other provision of law or order based thereon, if requested by the Secretary of Agriculture, the Secretary of the Interior is authorized and directed to take such actions (including but not limited to the revocation of the Shay Creek withdrawal (Mount Diablo Meridian: township 10 north, range 19

east, section 24, southeast quarter northeast quarter, east half southeast quarter, and southwest quarter southeast quarter) under Public Land Order 2301 and the issuance of patents) as may be necessary to consummate the exchange within the Toiyabe National Forest in California of the Shay Creek parcel for private holdings of equal value.

The following may be cited as the "New Hampshire Forest Management Initiatives Act of 1988".

SEC. 1. (a) For the protection and management of the timber resources and the scenic, natural, recreation and other resource values associated with certain forest lands in the State of New Hampshire, and in cooperation with State and private entities as provided herein, the Secretary of Agriculture (hereafter "Secretary") is authorized and directed to acquire by purchase, donation or otherwise, lands and interests therein now or formerly owned by Diamond International Corporation in the State of New Hampshire (hereafter "Diamond lands").

(b) The Diamond lands are generally depicted on maps dated July 1988 and entitled, "New Hampshire Forest Initiatives", which maps are on file with Chief, Forest Service, Washington, D.C. The Secretary may correct technical and clerical errors on any map.

(c) Acquisitions made pursuant to this Act shall be commensurate with appropriated and donated funds and shall be completed by the Secretary notwithstanding any other provision or requirement of law or condition precedent. The Secretary may exclude from acquisition such rights-of-way, easements and other outstanding rights deemed unacceptable to the Secretary, and may also exclude from acquisition any small or isolated parcels which the Secretary deems are not manageable for Federal purposes. It is the intent of Congress that these acquisitions be completed prior to October 15, 1988.

SEC. 2. (a) To the extend deemed practical by the Secretary in furtherance of this Act, the Secretary shall cooperate and assist ongoing and future initiatives by State and private organizations (hereafter "cooperating entity(ies)" to acquire the Diamond lands. Cooperating entities include, but are not limited to, the Society for the Protection of New Hampshire Forests, The Nature Conservancy, and the State of New Hampshire or instrumentality thereof.

(b) Any information provided the Secretary by any cooperating entity relating to the study and acquisition of lands shall be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

SEC. 3. Subject to the availability of donated and appropriated funds, if by October 1, 1988, the Secretary or a cooperating entity has not acquired title or a land purchase option or contract to purchase the lands referenced in section 1, less any exclusions, the Secretary is directed to condemn such lands, or portions thereof, commensurate with available funds. Condemnation shall be as soon as possible after October 1, 1988, by a declaration of taking filed in accordance with the Act of February 26, 1931 (40 U.S.C. 258a, as amended). Nothing herein shall preclude filing of a condemnation action at any time if the Secretary deems further negotiations for the acquisition of the Diamond lands to be futile or if the condemnation is for the purpose of clearing title. No Congressional oversight or approval shall be required for the filing of a declaration of taking or any other aspect of the land acquisitions herein authorized, it being the intent of the Congress that the Diamond lands be acquired as soon as practicable.

SEC. 4. All lands acquired by the Secretary under authority of or pursuant to this Act shall be administered under the Weeks Act of March 1, 1911 (36 Stat. 961, as amended). For lands acquired by the United States located outside of and not contiguous to national forest boundaries existing as of the date of this Act, the primary

management emphasis shall be the sustained yield of forest products consistent with the traditional uses, including public access, and conservation of other resource values. Within two years from the date lands are acquired pursuant to this Act, the Secretary shall report to Congress with recommendations for the permanent administration and disposition of such federally-owned lands.

SEC. 5. In furtherance of the public purposes associated with the present and future protection and management of the timber, scenic, natural, recreation and other resources of forest lands in New Hampshire, and for other similar purposes as may be authorized by Congress, the Secretary may enter into written cooperative agreements with States and their political subdivisions, and private organizations, for the study, acquisition, management and administration of forest lands. Such agreements may include provisions for limited financial assistance for such purposes.

SEC. 6. Of the amount provided herein, $5,250,000 shall be available from the Land and Water Conservation Fund, to remain available until expended, for the acquisition of lands and interests therein, and associated administrative costs.

[Total, Land Acquisition, $64,205,000.]

TONGASS TIMBER SUPPLY FUND

For necessary expenses for the Tongass National Forest pursuant to section 705(a) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 539d(a)), as amended, $35,999,000, to remain available until expended. $35,999,000

TIMBER ROADS, PURCHASER ELECTION, FOREST SERVICE

(RESCISSION)

Of the funds currently available and unobligated in this account, $40,000,000 is hereby rescinded. −40,000,000
(rescission)

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $966,000, to be derived from forest receipts. 966,000

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended. 335,000
(indefinite)

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements. 3,875,000
(indefinite)

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000 to remain available until expended, to be derived from the fund established pursuant to the above Act. $90,000

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 200 passenger motor vehicles of which ten will be used primarily for law enforcement purposes and of which 190 shall be for replacement only, of which acquisition of 165 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 59 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be transferred to the National Forest System appropriation for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction.

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest, and for sales preparation of timber sales to replace sales lost to fire or other causes, and sales preparation activities to replace sales inventory on the shelf for any national forest to a level sufficient to

maintain new sales availability equal to a rolling five-year average of the total sales offerings, and for design, engineering, and supervision of construction of roads lost to fire or other causes associated with the timber sales programs described above: *Provided,* That not less than $47,561,000 shall be made available to the Forest Service for obligation in fiscal year 1989 from the Timber Salvage Sales Fund appropriation: *Provided further,* That moneys received from the timber salvage sales program in fiscal year 1989 shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of the law, none of the funds available under this, or any other Act shall be obligated or expended to adjust annual recreational residence fees except on a four-year phased in basis commencing January 1, 1989.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

Notwithstanding the provisions under the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Forest Service is authorized to negotiate and enter into cooperative arrangements with the various States, and private, nonprofit organizations to continue the recreation and wildlife and fish Challenge Cost-share Programs.

None of the funds made available to the Forest Service in this Act shall be expended for the construction of the Gasquet-Orleans (G-O) road.

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until the studies required in Public Law 100-202 have been submitted to the Congress: *Provided,* That any special use authorization shall not be executed prior to the expiration of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt of the required studies by the Speaker of the House of Representatives and the President of the Senate.

Notwithstanding any other provision of law, the Secretary of the Treasury is directed to make available to the Secretary of Agriculture, to remain available until expended, all National Forest Fund timber receipts received by the Treasury during fiscal year 1988 from the harvesting of National Forest Timber in excess of $791,000,000, the 1988 National Forest Fund timber receipts con-

tained in the President's Budget proposal for fiscal year 1989: *Provided,* That this estimate of 1988 receipts shall not be adjusted for the purposes of this section: *Provided further,* That such funds shall be made available during fiscal year 1989, and shall be in addition to any funds appropriated in this Act: *Provided further,* That this transaction will not affect, diminish, or otherwise alter the payments to be made in accordance with the provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) or the Act of July 10, 1930 (16 U.S.C. 577g): *Provided further,* That the funds associated with this section shall be scored in a manner consistent with the President's request for fiscal year 1989: *Provided further,* That funds made available to the Secretary of Agriculture pursuant to this section shall be used for the necessary expenses, including support costs of National Forest System programs as follows: 6 per centum for National Forest trail maintenance; 4 per centum for National Forest Trail construction; 20 per centum for wildlife and fish habitat management; 20 per centum for soil, water, and air management; 5 per centum for cultural resource managment; 5 per centum for wilderness management; 10 per centum for reforestation; and 30 per centum for timber sales administration and management, including all timber support costs, for advanced preparation work for fiscal year 1990 and fiscal year 1991 timber sale offerings: *Provided further,* That not later than 30 days after the submission of the President's fiscal year 1990 budget, the Chief of the Forest Service shall provide a report to the House and Senate Committees on Appropriations on the final amount and distribution of funds made available under this section and shall include an assessment of National Forest resource outputs to be produced in fiscal year 1989, fiscal year 1990, and subsequent years, using funds made available under this section, and a comparison of the outputs achieved in fiscal year 1989 and proposed for fiscal year 1990, with the output levels for the program areas listed described in the Forest Service resource management plans in effect at the time of the report required by this section.

Notwithstanding the lack of authorization for payment from appropriated funds in older supplements to cooperative right-of-way construction and use agreements, the Forest Service is authorized and directed to make cash payments in lieu of payment through collection rights where it determines that an unreasonable delay has occurred or is likely to occur before the collection rights can be exercised or offsetting construction performed. In addition, the Service is authorized and directed to make cash payment of excess cost imbalances carried by cooperators which the Government has not repaid within a reasonable time period through the exercise of collection rights or by other means.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System Lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101–2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

[*Total, Department of Agriculture (net), $1,845,011,000.*]

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

For necessary expenses of, and associated with, Clean Coal Technology demonstrations pursuant to 42 U.S.C. 5901 et seq., $575,000,000 shall be made available on October 1, 1989, and shall remain available until expended: *Provided,* That projects selected

$575,000,000 *(advance appropriation, fiscal year 1990)*

pursuant to a general request for proposals issued pursuant to this appropriation shall demonstrate technologies capable of retrofitting or repowering existing facilities and shall be subject to all provisos contained under this head in Public Laws 99-190 and 100-202 as amended by this Act.

The first paragraph under this head in Public Law 100-202 is amended by striking "and $525,000,000 are appropriated for the fiscal year beginning October 1, 1988" and inserting "$190,000,000 are appropriated for the fiscal year beginning October 1, 1988, and shall remain available until expended, $135,000,000 are appropriated for the fiscal year beginning October 1, 1989, and shall remain available until expended, and $200,000,000 are appropriated for the fiscal year beginning October 1, 1990": *Provided,* That outlays in fiscal year 1989 resulting from the use of funds appropriated under this head in Public Law 100-202, as amended by this Act, may not exceed $15,500,000: *Provided further,* That these actions are taken pursuant to section 202(b)(1) of Public law 100-119 (2 U.S.C. 909).

$190,000,000

135,000,000 *(advance appropriation, fiscal year 1990)*

200,000,000 *(advance appropriation, fiscal year 1991)*

For the purposes of the sixth proviso under this head in Public Law 99-190, funds derived by the Tennessee Valley Authority from its power program are hereafter not to be precluded from qualifying as all or part of any cost-sharing requirement, except to the extent that such funds are provided by annual appropriations Acts: *Provided,* That unexpended balances of funds made available in the "Energy Security Reserve" account in the Treasury for The Clean Coal Technology Program by the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in section 101(d) of Public Law 99-190, shall be merged with this account: *Provided further,* That for the purposes of the sixth proviso in Public Law 99-190 under this heading, funds provided under section 306 of Public Law 93-32 shall be considered non-Federal: *Provided further,* That reports on projects selected by the Secretary of Energy pursuant to authority granted under the heading "Clean coal technology" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, which are received by the Speaker of the House of Representatives and the President of the Senate prior to the end of the second session of the 100th Congress shall be deemed to have met the criteria in the third proviso of the fourth paragraph under the heading "Administrative provisions, Department Energy" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, upon expiration of 30 calendar days from receipt of the report by the Speaker of the House of Representatives and the President of the Senate.

[*Total, clean coal technology, $1,100,000,000.*]

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $380,595,000, to remain available until expended, of which $249,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), and pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, of the amount appropriated under this head, $3,500,000 shall be available for a grant for an energy center at the University of Oklahoma in Norman, Oklahoma, and $9,000,000 shall be available for a grant for an energy center at West Virginia University in Morgantown, West Virginia,

380,595,000

without section 111(b)(2) of such Act being applicable, and $4,500,000 shall be available for continued construction of DOE Fossil Energy building B26: *Provided,* That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

Of the funds herein provided, $37,000,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided further,* That 30 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1989, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further,* That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $185,071,000, to remain available until expended. $185,071,000

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $372,502,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1989 determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided,* That $200,000,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507): *Provided further,* That pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, of the amount appropriated under this head, $3,000,000 shall be available for a grant for an energy and natural resources technology development center at Brandeis University in Waltham, Massachusetts without section 111(b)(2) of such Act being applicable: *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums shall be allocated to the eligible programs in the same amounts for each program as in fiscal year 1988, and of which $10,000,000 shall be available for a grant for the energy demonstration and research facility at Northwestern University designated under this head in Public Law 100-202 and as authorized by section 202 of Public Law 99-412 (42 U.S.C. 8281 note): *Provided further,* That the facility may be expanded to encompass space for life sciences in addition to that for material sciences. 372,502,000

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $21,372,000. 21,372,000

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,154,000. 6,154,000

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $173,421,000, to remain available until expended. $173,421,000

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), $242,000,000, to remain available until expended: *Provided,* That an additional $91,555,000 shall be made available until expended beginning October 1, 1989: *Provided further,* That notwithstanding 42 U.S.C. 6240(d) the United States' share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve. 242,000,000 91,555,000 *(advance appropriation, fiscal year 1990)*

[*Total SPR petroleum reserve, $333,555,000.*]

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $62,856,000 of which $1,000,000 for computer operations shall remain available until September 30, 1990. 62,856,000

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles, hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided,* That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any

unforeseen emergency needs from any funds available to the Department of Energy from this Act.

Notwithstanding 31 U.S.C. 3302, funds derived from the sale of assets as a result of defaulted loans made under the Department of Energy Alcohol Fuels Loan Guarantee program, or any other funds received in connection with this program, shall be credited to the Biomass Energy Development account, and shall be available solely for payment of the guaranteed portion of defaulted loans and associated costs of the Department of Energy Alcohol Fuels Loan Guarantee program for loans guaranteed prior to January 1, 1987.

Unobligated balances available in the "Alternative fuels production" account may be used for payment of the guaranteed portion of defaulted loans and associated costs of the Department of Energy Alcohol Fuels Loan Guarantee program, subject to the determination by the Secretary of Energy that such unobligated funds are not needed for carrying out the purposes of the Alternative Fuels Production program: *Provided,* That the use of these unobligated funds for payment of defaulted loans and associated costs shall be available only for loans guaranteed prior to January 1, 1987: *Provided further,* That such funds shall be used only after the unobligated balance in the Department of Energy Alcohol Fuel Loan Guarantee reserve has been exhausted.

[*Total, Department of Energy:*
[*New budget (obligational) authority* ..... *$2,635,526,000.*]
[*Appropriations, fiscal year 1989* ..... *1,633,971,000.*]
[*Advance appropriations, fiscal year 1990* . *801,555,000.*]
[*Advance appropriation, fiscal year 1991* ... *200,000,000.*]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXIII and sections 208 and 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $1,020,106,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 300cc–2 for services furnished by the Indian Health Service: *Provided,* That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act): *Provided further,* That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until expended: *Provided further,* That $15,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund and contract medical care: *Provided further,* That of the funds provided, $2,000,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $25,000 per year of obligated service in return for full-time clinical service in the Indian Health Service. Each individual participating in this program must sign and submit to the Secretary a written contract to accept repayment of educational loans and to

$1,020,106,000

serve for the applicable period of service in the Indian Health Service: *Provided further,* That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further,* That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further,* That of the funds provided, $2,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further,* That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1990.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, and purchase of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $61,668,000, to remain available until expended: *Provided,* That the Indian Heath Service may hold in reserve a sum not to exceed $600,000 as a contingency for site acquisition at the Kotzebue Hospital: *Provided further,* That of funds appropriated in the fiscal year 1987 continuing resolution for the construction of detoxification facilities for Indian youth, not to exceed $600,000 shall be made available for planning and design of a youth alcohol and substance abuse treatment facility by the Inland Tribal Consortium, to be located in the State of Washington: *Provided further,* That the Secretary of Health and Human Services may accept ownership of the buildings offered at no cost by the Gila River Indian Tribe for use solely as the Phoenix Area Regional Youth Treatment Center for Alcohol and Substance Abuse, and may use funds appropriated to the Indian Health Service in Public Law 99-591, to renovate the buildings for that purpose. $61,668,000

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance

provision therefor in appropriations Acts: *Provided further,* That non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, if such care can be extended without impairing the ability of the facility to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act or in the case of tribally administered facilities, shall be retained by the tribal organization without fiscal year limitation: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further,* That with the exception of Indian Health Service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further,* That the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B of the Public Health Service Act and assigned and providing direct health services or serving the officer's obligation as a specialist: *Provided further,* That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review and approval of the Committees on Appropriations: *Provided further,* That funds provided in this Act may be used to reimburse the Indian Health Service travel costs of spouses who accompany prospective Indian Health Service medical professional employees to the site of employment as part of the recruitment process: *Provided further,* That section 103(c) of the Indian Self-Determination Act (88 Stat. 2206), as amended by Public Law 100-202 (101 Stat. 1329-246), is amended by inserting after the word "claims" the words "by any person, initially filed on or after December 22, 1987, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations", and is further amended by inserting after the word "performance" the words "prior to, including, or after December 22, 1987," and is further amended by inserting after the word "investigations," the words "an Indian tribe," and is further amended by adding after the word "agreement" and before the period the words ": *Provided,* That such employees shall be deemed to be acting within the scope of their employment in carrying out such contract or agreement when they are required, by reason of such employment, to perform medical, surgical, dental or related functions at a facility other than the facility operated pursuant to such contract or agreement, but only if such employees are not compensated for the performance of such functions by a person or entity other than such Indian tribe, tribal organization or Indian contractor": *Provided further,* That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service: *Provided further,* That notwithstanding any other provision of law, the Secretary is au-

thorized to undertake a demonstration project at Kayenta, Arizona, on the Navajo Indian Reservation, to construct 10 housing units on Federal land, i.e., three one-bedroom, four two-bedroom, and three three-bedroom units, under an agreement with a non-profit, Indian controlled community development corporation, and in return for a Federal grant of $200,000, units which meet or exceed Federal construction standards are to be built, operated, maintained in adequate condition and, for a period of 20 years following completion of construction, offered for rent to Federal employees. First preference for rental is to be given to essential Indian Health Service (IHS) employees as determined in accordance with IHS quarters management policies. Rental rates charged by the owner shall be established by the same method as would be used if the units were federally owned. Navajo Area IHS guidelines for occupant conduct and responsibility in Federal quarters shall apply unless stricter standards are mutually adopted: *Provided further,* That notwithstanding any other provision of law, there are 170 village built clinics authorized to be operated in Alaska.

[*Total, Department of Health and Human Services, $1,081,774,000.*]

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, as amended by Public Law 100-297, $71,553,000, of which $52,748,000 shall be for part A and $15,807,000 shall be for parts B and C: *Provided,* That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1990. $71,553,000

OTHER RELATED AGENCIES

Navajo and Hopi Indian Relocation Commission

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $27,323,000, to remain available until expended, for operating expenses of the Commission: *Provided,* That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further,* That no relocatee will be provided with more than one new or replacement home: *Provided further,* That the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10. [1] 27,373,000

Institute of American Indian and Alaska Native Culture and Arts Development

SALARIES AND EXPENSES

For necessary expenses of the Institute of American Indian and Alaska Native Culture and Arts Development as authorized by

[1] Enrolled erroneously as $27,323,000. Corrected in P.L. 101-45, Title III, Technical Corrections, sec. 303.

Public Law 99-498, $3,094,000 for payment to the Institute of American Indian and Alaska Native Culture and Arts Development to carry out the provisions of Public Law 99-498, as amended (20 U.S.C. 56, Part A), of which not to exceed $250,000 for Federal matching contributions shall be paid to the Institute endowment fund. $3,094,000

Section 1513 of the Higher Education Amendments of 1986 (20 U.S.C. 4420) is amended—

(1) by striking out "The Institute" and inserting in lieu thereof "(a) TAX STATUS.—The Institute",

(2) by inserting "; TORT LIABILITY" after "STATUS" in the section heading, and

(3) by adding at the end thereof the following new subsection:

"(b) TORT LIABILITY.—

"(1) The Institute shall be subject to liability relating to tort claims only to the extent a Federal agency is subject to such liability under chapter 171 of title 28, United States Code.

"(2) For purposes of chapter 171 of title 28, United States Code, the Institute shall be treated as a Federal agency (within the meaning of section 2671 of such title).

"(3) For purposes of chapter 171 of title 28, United States Code, the President of the Institute shall be deemed the head of the Agency.".

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $211,240,000, of which not to exceed $1,206,000 for the instrumentation program shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations. 211,240,000

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $5,305,000, to remain available until expended. 5,305,000

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $20,735,000, to remain available until expended: *Provided*, That contracts awarded for environmental sys- 20,735,000

tems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $8,655,000, to remain available until expended: *Provided,* That notwithstanding any other provison of law, the Institution is authorized to transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $150,000 for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory. $8,655,000

[*Subtotal, Smithsonian Institution, $245,935,000.*]

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C 5901–5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $37,981,000, including $2,370,000 for the special exhibition program, of which not to exceed $2,320,000 for the special exhibition program shall remain available until expended. 37,981,000

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $750,000 to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price. 750,000

[*Total, National Gallery of Art, $38,731,000.*]

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles, and services as authorized by 5 U.S.C. 3109, $4,240,000. 4,240,000

PAYMENT TO ENDOWMENT CHALLENGE FUND

For payment to the Endowment Challenge Fund for the Woodrow Wilson International Center for Scholars $300,000, to reamain available until September 30, 1990: *Provided,* That such sums shall be transferred only to the extent matched on a three-to-one basis by private funds. $300,000

[*Total, Woodrow Wilson International Center for Scholars, $4,540,000.*]

[*Total, Smithsonian Institution, $289,206,000.*]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and Humanities Act of 1965, as amended, $141,890,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act: *Provided,* That none of the funds available to the National Endowment for the Arts may be used to implement a peer panel review process different from that in place as of December 31, 1987. 141,890,000

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $27,200,000, to remain available until September 30, 1990, to the National Endowment for the Arts, of which $18,200,000 shall be available for purposes of section 5(l): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated. 27,200,000

[*Total, National Endowment for the Arts, $169,090,000.*]

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $124,300,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act. 124,300,000

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,700,000, to remain available until September 30, 1990, of which $16,700,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 28,700,000

11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

[*Total, National Endowment for the Humanities, $153,000,000.*]

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $22,270,000, including not to exceed $250,000 as authorized by 20 U.S.C. 965(b): *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further,* That the Museum Services Board shall not meet more than three times during fiscal year 1989. $22,270,000

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided,* That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

[*Total, National Foundation on the Arts and the Humanities, $344,360,000.*]

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $475,000. 475,000

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $5,000,000. 5,000,000

[*Total, Commission of Fine Arts, $5,475,000*]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,778,000: *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions. 1,778,000

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $2,962,000. 2,962,000

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat.

694), as amended by Public Law 92-332 (86 Stat. 401), $28,000 to remain available until September 30, 1990. $28,000

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,334,000, for operating and administrative expenses of the Corporation. 2,334,000

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,175,000, to remain available until expended. 3,175,000

[*Total, Pennsylvania Avenue Development Corporation, $5,509,000.*]

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388 as amended, $2,244,000: *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions. 2,244,000

[*Total, title II, Related Agencies:*

[*New budget (obligational) authority (net)* ..... *$6,315,893,000.*]

[*Appropriations, fiscal year 1989 (net)* ..... *5,314,338,000.*]

[*Appropriations, definite* ..... *5,350,128,000.*]

[*Appropriations, indefinite* ..... *4,210,000.*]

[*Rescission* ..... *−40,000,000.*]

[*Advance appropriations, fiscal year 1990* .... *801,555,000.*]

[*Advance appropriation, fiscal year 1991* .... *200,000,000.*]

[*Liquidation of contract authority* ..... *5,333,000.*]

[*Timber receipt transfer to general fund, indefinite* ..... *−79,100,000.*]

[*Timber purchaser credits* ..... *75,000,000.*]

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided,* That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided,* That nothing herein is in-

tended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the National Forest System released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1) (A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate. potassium, sulfur, gilsonite, or geothermal resources on Federal lands within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: *Provided,* That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further,* That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about the inventorying of energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further,* That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further,* That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information

on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as the Secretary deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods the Secretary deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by the Secretary to be qualified to engage in such activities whenever the Secretary has determined that such contract would decrease Federal expenditures and would produce comparable or superior results: *Provided further,* That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources.

SEC. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 311. Notwithstanding any other provision of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1989 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

SEC. 314. The Forest Service and Bureau of Land Management are to continue to complete as expeditiously as possible development of their respective Forest Land and Resource Management Plans to meet all applicable statutory requirements. Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service, and the Bureau of Land Management under separate authority, may continue the management of lands within their jurisdiction under existing land and resource management plans pending the

completion of new plans. Nothing shall limit judicial review of particular activities on these lands: *Provided, however,* That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated, or in the case of the Bureau of Land Management, solely on the basis that the plan does not incorporate information available subsequent to the completion of the existing plan: *Provided further,* That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

SEC. 315. (a) From funds appropriated under this Act such sums as are necessary shall be made available to pay forest or wildland firefighters premium pay under the provision of subchapter V of chapter 55 of title 5, United States Code (notwithstanding the limitations of section 5547 of such title), for all premium pay that would have been paid to such forest or wildland firefighter employees, but for the provisions of section 5547 of such title, for all pay periods (and parts thereof) occurring during the fiscal year ending September 30, 1989.

(b) Notwithstanding the provisions of subsection (a), no forest or wildland firefighter employee may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the maximum rate for GS–15 as provided under the General Schedule pursuant to subchapter III of chapter 53 of title 5, United States Code.

(c) For purposes of this section, the term "wildland forest firefighter" means any employee of the Department of Agriculture or the Department of the Interior who is assigned to, or in support of, work on forest or wildland wildfire emergencies.

SEC. 316. Section 320 of Pubic Law 98–473 (98 Stat. 1874), is amended by deleting the colon and all that follows the words "quarters of that agency" and inserting a period (.) in place of the colon.

SEC. 317. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves only will be done to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.

SEC. 318. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 319. Notwithstanding any other provision of law, hereafter for the purposes of section 208 of title 18, United States Code, "particular matter", as applied to employees of the Department of the Interior and the Indian Health Service, shall mean "particular matter involving specific parties".

SEC. 320. Notwithstanding any other provision of law, the Final Environmental Impact Statement issued by the USDA Forest Service concerning the Silver Complex Fire Recovery Project on the Siskiyou National Forest and the Record of Decision accompanying the Environmental Impact Statement shall not be subject to judicial review, and shall be subject only to one level of administrative appeal. Existing administrative appeals and appellant's Statement of Reasons shall be immediately transferred to the Chief of the Forest Service for decision. The Chief must render his decision not later than 30 days following enactment of this Act.

Any decision of a responsible Forest Service official to undertake a specific activity, including but not limited to the preparation, advertisement and sale of timber and the preparation, advertise-

ment and contracting for the construction of related roads within the Silver Complex Fire Recovery Area, as designated on maps dated June, 1988 and entitled "Silver Complex Fire Recovery Area", which maps are on file with the Chief, Forest Service, Washington, D.C., shall not be sujbect to administrative appeal or judicial review.

No funds made available to the Forest Service under this or any other Act may be expended to extend the Bald Mountain Road on the Siskiyou National Forest beyond southwest quarter, northeast quarter of section 21, township 36 south, range 10 west, Willamette Meridian.

SEC. 321. To ensure adequate availability of timber from the Mapleton Ranger District of the Siuslaw National Forest until the final forest land and resource management plan pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, as amended (16 U.S.C. 1604) is in effect, and notwithstanding the injunction issued pursuant to the judgment in National Wildlife Federation, et al. v. United States Forest Service, et al. (592 F. Supp. 931 (D. Ore. 1984) as modified by 801 F. 2d 360 (9th Cir. 1986)), the Secretary of Agriculture is authorized to offer up to 90 million board feet of net merchantable timber in fiscal year 1989 in the Mapleton Ranger District of the Siuslaw National Forest pursuant to the requirements of this section and until completion of the final forest plan. For purposes only of selling timber pursuant to this section (and activities related thereto), the Secretary shall utilize the Siuslaw National Forest draft land and resource management plan and accompanying draft environmental impact statement dated October 1, 1986 as if they were the final forest plan and environmental impact statement: *Provided,* That such statement, timber sales, roads and other associated activities, and their accompanying environmental assessments, prepared and offered pursuant to and consistent with such draft plan, for purposes only of this section, shall be treated as satisfying all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, as amended (16 U.S.C. 1600 et seq.) and shall not be subject to administrative or judicial review for compliance with such Acts: *Provided further,* That nothing in this section shall affect any existing right of administrative or judicial review of such timber sales for compliance with other applicable laws: *Provided further,* That this provision does not in any manner represent a judgment upon the legal adequacy of the Siuslaw National Forest final plan and environmental impact statement.

SEC. 322. Unobligated blanaces remaining from the Baca Geothermal Demonstration Powerplant Project may be used to clean out the Hulin Well in the State of Louisiana.

SEC. 323. (a) Subject to valid existing rights, on the date of enactment of this section deposits of quartz mineral within the Ouachita National Forest in the State of Arkansas shall no longer be subject to location and entry under the General Mining Law of 1872 (17 Stat. 91), as amended, and all such deposits shall hereafter be disposed of under the same conditions as are applicable to common varieties of mineral materials on such lands under the Materials Act of 1947 (61 Stat. 681), as amended: *Provided,* That fifty percent of the moneys received pursuant to this section shall be paid by the Secretary of the Treasury to the State of Arkansas, to be expended as the State may prescribe for the benefit of the public schools and public roads of the counties in which the Ouachita National Forest is situated.

(b) The Secretary of Agriculture shall prescribe rules and regulations for the disposal of quartz mineral from the Ouachita National Forest.

SEC. 324. The Secretary of the Interior shall not recover or recoup any portion of late payment interest paid to the United States which is paid or distributed to any State or other recipient of Federal mineral lease revenues prior to September 30, 1989, except for amounts paid in connection with royalties or other revenues subsequently determined to be not owing to the United States.

Approved September 27, 1988.

LEGISLATIVE HISTORY--H.R. 4867

HOUSE REPORTS: No. 100-713 (Comm. on Appropriations) and No. 100-862 (Comm. of Conference).
SENATE REPORT No. 100-410 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, reported in the House.
June 29, considered and passed House.
July 6, reported in the Senate.
July 13, considered and passed Senate, amended.
Aug. 10, conference report filed in the House.
Sept. 8, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; receded and concurred to House amendments.

Grand total:		
New budget (obligational) authority (net)	$10,893,516,000	
Appropriations, fiscal year 1989 (net)	(9,891,961,000)	
Appropriations, definite	(9,943,145,000)	
Appropriations, indefinite	(18,816,000)	
Rescissions	(−70,000,000)	
Advance appropriations, fiscal year 1990	(801,555,000)	
Advance appropriation, fiscal year 1991	(200,000,000)	
Liquidation of contract authority	*(52,333,000)*	
Timber receipt transfer to general fund, indefinite	*(−79,100,000)*	
Timber purchaser credits	*(75,000,000)*	
Total, new budget (obligational) authority, Department of the Interior and Related Agencies Appropriations Act, 1989 (net)		$10,893,516,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1989 contained in the foregoing annual appropriations act, the following additional amounts are available for the Department of the Interior for the fiscal year:

Permanent appropriations:		
Federal funds (pp. 2227-2230)	$1,031,143,000	
Trust funds (pp. 2244-2245)	611,415,000	
Appropriations in legislative acts:		
Miscellaneous payments to Indians, Federal funds (P.L. 100-581) (p. 2352)	1,000,000	
Miscellaneous trust funds, trust funds (P.L. 100-411) (p. 2353)	1,000,000	
Payments to States from receipts under Mineral Leasing Act, Federal funds (P.L. 100-524) (p. 2352)	14,000,000	
Energy and Water Development Appropriations Act, 1989:		
Bureau of Reclamation (pp. 138-144)	993,621,000	
Subtotal, additions		2,652,179,000

Deduct advance appropriations for fiscal years 1990 and 1991 and amounts transferred to Department of Agriculture, Department of Education, Department of Energy, Department of Health and Human Services, and General Government totals:

Advance appropriations for fiscal year 1990:		
Department of Energy:		
Clean coal technology (pp. 266–267)	$710,000,000	
SPR petroleum account (p. 269)	91,555,000	
Advance appropriation for fiscal year 1991:		
Department of Energy: Clean coal technology (p. 267)	200,000,000	
Department of Agriculture:		
Forest Service (pp. 260–266)	1,845,011,000	
Department of Education: Indian Education (p. 273)	71,553,000	
Department of Energy (pp. 266–270)	1,633,971,000	
Department of Health and Human Services: Indian Health Service (pp. 270–273)	1,081,774,000	
General Government:		
Advisory Council on Historic Preservation (p. 277)	1,778,000	
Commission of Fine Arts (p. 277)	475,000	
Franklin Delano Roosevelt Memorial Commission (pp. 277–278)	28,000	
Institute of American Indian and Alaska Native Culture and Arts Development (pp. 273–274)	3,094,000	
National Capital Arts and Cultural Affairs (p. 277)	5,000,000	
National Capital Planning Commission (p. 277)	2,962,000	
National Foundation on the Arts and the Humanities (pp. 276–277)	344,360,000*	
Navajo and Hopi Relocation Commission (p. 273)	27,373,000	
Pennsylvania Avenue Development Corporation (p. 278)	5,509,000	
Smithsonian Institution (pp. 274–276)	289,206,000	
United States Holocaust Memorial Council (p. 278)	2,244,000	
Subtotal, deductions		−$6,315,893,000
Grand total, Department of the Interior (net)		7,229,802,000

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Public Law 100-436

100th Congress, H.R. 4783

September 20, 1988

AN ACT

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $71,638,000 together with not to exceed $48,906,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund. [1] $70,779,000
[1] *48,320,000 (limitation on trust fund transfer)*

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, $3,709,800,000, plus reimbursements, to be available for obligation for the period July 1, 1989, through June 30, 1990, of which $59,713,000 shall be for carrying out section 401, $69,372,000 shall be for carrying out section 402, $9,633,000 shall be for carrying out section 441, $2,000,000 shall be for the National Commission for Employment Policy, $4,000,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $6,000,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act and $36,000,000 shall be used to continue acquisition, rehabilitation, and construction of six new Job Corps centers; and, in addition, $9,500,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act, of [1] 3,665,282,000 [1] 9,386,000

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

which $1,900,000 shall be for carrying out section 738 of the Act: *Provided*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers as authorized by the Job Training Partnership Act, $63,916,000, to be available for obligation for the period July 1, 1989 through June 30, 1992. [1] $63,149,000

For activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended, including necessary related administrative expenses, $47,870,000, in accordance with section 1424 of H.R. 4848 as passed the Senate on August 3, 1988. 47,870,000

Of the funds provided under this heading in the Department of Labor Appropriations Act, 1988, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers, not to exceed $30,000,000, may be expended as necessary, for center operations to maintain existing Job Corps centers and current enrollment levels. Such funds for center operations shall be available for obligation for the period July 1, 1988 through June 30, 1989. Such transfer shall in no way reduce the obligation of the Department of Labor to comply with the provisions of Public Law 100-202 for the rehabilitation and relocation of existing centers and the expeditious obligation of funds for the planning and construction of new centers.

The Congress recognizes the need to prepare the Nation's workforce for the more complex work environment of the United States post-industrial economy. The Congress is concerned with the findings of the Office of Technology Assessment that 25 million workers will have to upgrade their job skills by the end of this century. Accordingly, the Congress directs the Secretary to give priority to funding pilots and demonstrations and research, development, and evaluation programs that will address this urgent National priority.

Further, in recognition that upgrading the skills of 25,000,000 workers cannot be achieved with current methods of teaching, the Congress directs the Secretary to fund from the available National activities program funds research and development projects using interactive laser-videodisc technology course materials that are specifically designed to upgrade "workplace literacy".

[*Total, Training and Employment Service, $3,785,687,000.*]

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $271,440,000. [1] 268,182,000

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $76,560,000. [1] 75,642,000

[*Total, Community Service Employment for Older Americans, $343,824,000.*]

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended), $134,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 134,000,000

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

15, of the current year: *Provided*, That amounts received or recovered pursuant to section 208(e) of Public Law 95–250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49–49l–1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502–504); necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, and sections 231–235 and 243–244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii), 212(a)(14), and 216(g) (1), (2), and (3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); and necessary administrative expenses to carry out the Targeted Jobs Tax Credit program under section 51 of the Internal Revenue Code of 1986, $22,833,000, together with not to exceed $2,479,714,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 1989, and of which $21,733,000 together with not to exceed $751,296,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1989, through June 30, 1990, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose and of which $157,479,000 (including not to exceed $3,000,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1989.

[1] $22,559,000
[1] *2,449,956,000*
(limitation on trust fund transfer)

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1990; $124,000,000. 124,000,000

[*Total, Employment and Training Administration, $4,480,849,000.*]

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $73,059,000, of which $5,000,000 for a pension plan data base shall remain available until September 30, 1990. [1] $72,182,000

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1989, for such Corporation: *Provided,* That not to exceed $41,232,000 shall be available for administrative expenses of the Corporation: *Provided further,* That contractual expenses of such Corporation for legal and financial services in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation. [1] *40,737,000 (limitation on trust fund transfer)*

[*Total, Pension Benefit Guaranty Corporation (limitation), $53,581,000.*] [1,2] *12,844,000 (limitation on trust fund transfer)*

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $214,489,000 together with $526,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act. [1] 211,915,000

[1] *520,000 (limitation on trust fund transfer)*

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $255,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided,* That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1989. 255,000,000

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[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.
[2] Indefinite amount.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $690,757,000, of which $633,435,000 shall be available until September 30, 1990, for payment of all benefits as authorized by section 9501(d) (1), (2), and (7) of the Internal Revenue Code of 1954, as amended, and of which $30,210,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $26,597,000 for transfer to Departmental Management, Salaries and Expenses, and $515,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

$690,757,000

(indefinite)

756,000

(indefinite)

[*Total, Black Lung Disability Trust Fund, $691,513,000.*]

[*Total, Employment Standards Administration, $1,158,428,000.*]

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $247,517,000, including not to exceed $43,000,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any

[1] 244,546,000

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further,* That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $164,597,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed twenty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

[1] $162,621,000

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $190,397,000, of which $2,829,000 shall be for expenses of revising the Standard Industrial Classification, together with not to exceed $46,323,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided*, That $3,550,000 shall remain available until September 30, 1990.

[1] 188,114,000
[1] *45,767,000 (limitation on trust fund transfer)*

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $2,468,000 for the President's Committee on Employment of the Handicapped, $117,839,000, together with not to exceed $285,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

[1] 116,424,000
[1] *282,000 (limitation on trust fund transfer)*

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $159,406,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-08 and 2021-26.

[1] *157,493,000 (limitation on trust fund transfer)*

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $39,997,000, together with not to exceed $5,701,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

[*Total, Departmental Management* ..... *$155,941,000.*]

[1] 39,517,000
[1] *5,633,000 (limitation on trust fund transfer)*

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. None of the funds appropriated in this Act shall be obligated or expended for the purpose of closing any Job Corps Center operating under part B of title IV of the Job Training Partnership Act prior to July 1, 1989.

SEC. 104. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

SEC. 105. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1989".

[Total, title I, Department of Labor:
[New budget (obligational) authority ..... $6,462,681,000.]
[Definite ..... 6,461,925,000.]
[Indefinite ..... 756,000.]
[Limitation on trust fund transfer ..... 2,761,552,000.]

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

PROGRAM OPERATIONS

For carrying out titles III, VII, VIII, X, XVI, and XXIII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V and section 1110 of the Social Security Act, and title IV of the Health Care Quality Improvement Act of 1986, as amended, $1,632,584,000, of which not to exceed $900,000, to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, and of which $500,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act and of which $4,000,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long term care facilities for AIDS patients and of which $20,800,000 shall be available for an infant mortality initiative funded through the community health centers and migrant health centers: *Provided,* That grants made under the Excellence in Minority Health Edu- [1] $1,612,993,000

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

cation and Care Act shall be awarded competitively and, notwithstanding section 788A, any university which awards a graduate degree in the health professions and which has a majority enrollment of minority students shall be eligible to apply and compete for a grant: *Provided further,* That not to exceed $10,000,000 of funds returned to the Secretary pursuant to section 839(c) of the Public Health Service Act or pursuant to a loan agreement under section 740 or 835 of the Act may be used for activities under titles III, VII, and VIII of the Act: *Provided further,* That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation: *Provided further,* That during fiscal year 1989, and within the resources and authority available under section 338 of the Public Health Service Act, gross obligations for the principal amount of direct loans under sections 335(c), 338C(e)(1), and 338E of that Act shall not exceed $500,000. [1] *$494,000 (limitation on direct loans)*

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $21,600,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made. 21,600,000

[Total, Health Resources and Services Administration, $1,634,593,000.]

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, XVII, XIX, and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $993,830,000, of which $2,000,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided,* That training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further,* That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further,* That collections from user fees, may be credited to this appropriation: *Provided further,* That amounts received by the National Center for Health Statistics from reimbursable and interagency [1] 981,905,000

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further,* That in addition to amounts provided herein, up to $12,486,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Health and Nutrition Examination Survey: *Provided further,* That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality shall be treated as non-Federal employees for reporting purposes only. In addition, the full-time equivalents for organizations within the Department of Health and Human Services shall not be reduced to accommodate implementation of this provision: *Provided further,* That the office building at the Centers for Disease Control (CDC) Clifton Road site in Atlanta, Georgia and the laboratory facility in Chamblee, Georgia, referred to in the CENTERS FOR DISEASE CONTROL—DISEASE CONTROL, RESEARCH AND TRAINING APPROPRIATION appearing in title II of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act for the fiscal year ending September 30, 1988, Public Law 100-202, December 22, 1987, 101 Stat. 1329-264—1329-265, shall be constructed in conformity with design plans prepared by the CDC, and shall be acquired without regard to the provisions of the Public Buildings Act of 1959 regarding prospectus approval by lease-purchase contracts entered into by the General Services Administration prior to their construction using funds appropriated annually to GSA from the Federal Buildings Fund for the rental of space which shall hereafter be available for this purpose. The contracts shall provide for the payment of the purchase price and reasonable interest thereon by lease or installment payments over a period not to exceed 30 years. The contracts shall futher provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. The Federal Buildings Fund shall be reimbursed from the annual appropriations to the CENTERS FOR DISEASE CONTROL—DISEASE CONTROL, RESEARCH, AND TRAINING (or any other appropriation hereafter made available to the CDC for construction of facilities) and such appropriations shall be hereafter available for the purpose of reimbursing the Federal Buildings Fund. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. sections 1502 and 1341(a)(1)(B).

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,593,536,000; of which at least $75,000,000 shall be available only for cancer prevention and control and $2,500,000, to remain available until expended, shall be available only for the Frederick Cancer Research Facility. [1] $1,574,414,000

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,059,303,000. [1] 1,046,592,000

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[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, $132,578,000. [1] $130,988,000

SEC. 200. None of the funds contained in this Act shall be used to compel any action in violation of section 401 (b) and (c) of Public Law 93-45.

NATIONAL INSTITUTE OF DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $567,158,000. [1] 560,352,000

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, $573,978,000 of which up to $96,100,000 as the Secretary may determine to be appropriate, shall be transferred to the National Institute on Deafness and Other Communication Disorders upon being enacted into law. [1] 567,090,000

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $754,084,000. [1] 745,035,000

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $690,653,000. [1] 682,365,000

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $431,388,000. [1] 426,212,000

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $234,218,000. [1] 231,408,000

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $226,168,000. [1] 223,454,000

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $225,578,000. [1] 222,871,000

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $161,931,000. [1] 159,988,000

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[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $362,987,000, of which $5,000,000 shall remain available until expended to provide for the repair, renovation, modernization, and expansion of existing facilities and purchase of associated equipment, and to make grants and enter into contracts for such purposes: *Provided*, That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants. [1] $358,631,000

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $29,500,000. [1] 29,146,000

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $16,074,000, of which $1,852,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory. [1] 15,881,000

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $74,626,000. [1] 73,731,000

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $73,078,000 including purchase of not to exceed five passenger motor vehicles for replacement only. [1] 72,201,000

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, $39,000,000, to remain available until expended. [1] 38,532,000

Notwithstanding any other provision of this Act, AIDS education programs funded by the Centers for Disease Control and other education curricula funded under this Act dealing with sexual activity—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual, and

(2) in addition, with regard to AIDS education programs and curricula—

(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information, and

(B) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

[*Subtotal, National Institutes of Health* ..... *$7,158,891,000.*]
[*Reduction for procurement reforms* ..... [2] *—6,684,000.*]
[*Total, National Institutes of Health* ..... *7,152,207,000.*]

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.
[2] Reflects action in section 215 of this Act (p. 305, this volume).

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $1,581,691,000 of which $4,787,000 shall be available, on a pro rata basis, for grants to the States for State comprehensive mental health services plans pursuant to title V of Public Law 99-660 (100 Stat. 3794-3797), of which $200,000 for renovation of government owned or leased intramural research facilities shall remain available until expended. [1] $1,562,712,000

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $24,000,000 which shall be available in fiscal year 1989 for payments to the District of Columbia as authorized by section 9(a) of the Act: *Provided,* That any amounts determined by the Secretary of Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury. [1] 23,712,000

In fiscal year 1989 and thereafter, the maximum amount available to Saint Elizabeths Hospital from Federal sources shall not exceed the total of the following amounts: the appropriations made under this heading, amounts billed to Federal agencies and entities by the District of Columbia for services provided at Saint Elizabeths Hospital, and amounts authorized by titles XVIII and XIX of the Social Security Act. This maximum amount shall not include Federal funds appropriated to the District of Columbia under "Federal Payment to the District of Columbia" and payments made pursuant to section 9(c) of Public Law 98-621. Amounts chargeable to and available from Federal sources for inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by 24 U.S.C. 191, 196, 211, 212, 222, 253, and 324; 31 U.S.C. 1535; and 42 U.S.C. 249 and 251 shall not exceed the estimated total cost of such services as computed using only the proportionate amount of the direct Federal subsidy appropriated under this heading.

[*Total, Alcohol, Drug Abuse and Mental Health Administration, 1,586,424,000.*]

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out title III, XVII, and XX of the Public Health Service Act, $70,167,000, together with not to exceed $1,050,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein and $5,950,000 to be transferred and expended for patient outcome assessment research as authorized by section 9316 of Public Law 99-509, of which $3,868,000 will come from the Federal Hospital Insurance Trust Fund and $2,082,000 will come from the Federal Supplementary Medical Insurance Trust Fund, and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall [1] 69,325,000
[1] *1,037,000 (limitation on trust fund transfer)*
[1] *5,879,000 (limitation on trust fund transfer)*

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

remain available until expended: *Provided*, That in addition to amounts provided herein, up to $10,155,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Medical Expenditure Survey.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year. $102,687,000 *(indefinite)*

VACCINE INJURY COMPENSATION TRUST FUND

For payments from the Vaccine Injury Compensation Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death resolved during the current fiscal year with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act as amended by Public Law 100-203, and from such trust fund such sums as may be necessary, not to exceed $80,000,000, for compensation of claims adjudicated by the United States Claims Court arising from liability related to the administration of vaccines before October 1, 1988. *(indefinite)* *80,000,000 (limitation on trust fund expenses)*

[*Total, Office of Assistant Secretary for Health, $172,012,000.*]

[*Total, Public Health Service:*

[*New budget (obligational) authority*	*$11,527,141,000.*]
[*Appropriations, definite*	*11,424,454,000.*]
[*Appropriations, indefinite*	*102,687,000.*]
[*Limitation on direct loans*	*494,000.*]
[*Limitation on trust fund expenses*	*80,000,000.*]
[*Limitation on trust fund transfer*	*6,916,000.*]

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $26,236,000,000 to remain available until expended. 26,236,000,000

For making, after May 31, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1989 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary. [1] *(indefinite)*

Payment under title XIX may be made for any quarter beginning after June 30, 1988 and before October 1, 1989, with respect to any State plan or plan amendment in effect during any such quarter, if submitted in, or prior to such quarter and approved in that or any such subsequent quarter.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1990, $9,000,000,000, to remain available until expended. 9,000,000,000 *(advance appropriation, fiscal year 1990)*

[*Total, Grants to States for Medicaid, $35,236,000,000.*]

[1] Amounts made available, if any, under this authority will be included in a table 8 to accompany the 101st Congress, 1st Session.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, $31,227,000,000. — $31,227,000,000

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, $94,417,000, together with not to exceed $1,825,219,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds or any other trust fund which may be established by law for catastrophic coverage under the Medicare program: *Provided*, That $100,000,000 of said trust funds shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates of this Act, and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That all funds derived in accordance with 31 U.S.C. 9701, are to be credited to this appropriation. — [1] 93,284,000 [1] *1,803,317,000 (limitation on trust fund transfer)*

[*Total, Health Care Financing Administration:*
[*New budget (obligational) authority* ..... *$66,556,284,000.*]
[*Appropriations, fiscal year 1989* ..... *57,556,284,000.*]
[*Advance appropriation, fiscal year 1990*.. *9,000,000,000.*]
[*Limitation on trust fund transfer* ..... *1,803,317,000.*]

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act, $93,631,000. — 93,631,000

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $628,581,000, to remain available until expended: *Provided*, That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act. — 628,581,000

For making, after July 31, of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary. — [2] *(indefinite)*

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1990, $211,000,000, to remain available until expended. — 211,000,000 *(advance appropriation, fiscal year 1990)*

[*Total, Special Benefits for Disabled Coal Miners, $839,581,000.*]

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.
[2] Amounts made available, if any, under this authority will be included in a table S to accompany the 101st Congress, 1st Session.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, title XI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $9,473,953,000, to remain available until expended: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury. $9,473,953,000

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary. [2] *(indefinite)*

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1990, $2,936,000,000, to remain available until expended. 2,936,000,000 *(advance appropriation, fiscal year 1990)*

[*Total, Supplemental Security Income, $12,409,953,000.*]

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $3,795,661,000, may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided,* That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further,* That $97,870,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further,* That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States: *Provided further,* That not to exceed $170,000,000 shall be available for automatic data processing and telecommunication activities. [1] *3,750,113,000 (limitation on administrative expenses)*

[*Total, Social Security Administration:*
[*New budget (obligational) authority ..... $13,343,165,000.*]
[*Appropriations, fiscal year 1989 ..... 10,196,165,000.*]
[*Advance appropriations, fiscal year 1990 3,147,000,000.*]
[*Limitation on administrative expenses ..... 3,750,113,000.*]

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), $8,204,337,000, to remain available until expended. 8,204,337,000

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, for the last three

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.
[2] Amounts made available, if any, under this authority will be included in a table 8 to accompany the 101st Congress, 1st Session.

months of the current year for unaniticipated costs, incurred for the current fiscal year, such sums as may be necessary. [1] *(indefinite)*

For making payments to States or other non-Federal entities under titles I, IV–A and –D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9) for the first quarter of fiscal year 1990, $2,700,000,000, to remain available until expended. $2,700,000,000 *(advance appropriation, fiscal year 1990)*

[*Total, Family support payments to States, $10,904,337,000.*]

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,400,000,000. [2] 1,383,200,000

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $387,000,000. [2] 382,356,000

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $92,551,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes. [2] 91,440,000

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and section 408 of Public Law 99–425, and the Stewart B. McKinney Homeless Assistance Act, $382,185,000 of which $20,500,000 shall be for carrying out section 681(a)(2)(A), $4,062,000 shall be for carrying out section 681(a)(2)(D), $2,984,000 shall be for carrying out section 681(a)(2)(E), $6,750,000 shall be for carrying out section 681(a)(2)(F), $239,000 shall be for carrying out section 681(a)(3), $3,555,000 shall be for carrying out section 408 of Public Law 99–425 and $2,447,000 shall be for carrying out section 681A with respect to the community food and nutrition program. [2] 377,598,000

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C., ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, $82,464,000. [2] 81,474,000

[*Total, Family Support Administration:*
[*New budget (obligational) authority (net)..... $13,220,405,000.*]
[*Appropriations, fiscal year 1989 ..... 10,520,405,000.*]
[*Advance appropriation, fiscal year 1990. 2,700,000,000.*]

[1] Amounts made available, if any, under this authority will be included in table 8 to accompany the 101st Congress, 1st Session.
[2] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,700,000,000. — $2,700,000,000

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, section 404 of Public Law 98–473, the Family Violence Prevention and Services Act (title III of Public Law 98–457), the Native American Programs Act, title II of Public Law 100–294 (adoption opportunities), title II of the Children's Justice and Assistance Act of 1986, chapter 8–D of title VI of the Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and development of dependent care programs), the Head Start Act, the Comprehensive Child Development Centers Act of 1988, the Child Development Associate Scholarship Assistance Act of 1985, and part B of title IV and section 1110 of the Social Security Act, $2,574,808,000, of which $12,000,000 shall be made available to carry out the State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.): *Provided*, That appropriations to carry out the Comprehensive Child Development Program under chapter 8, subchapter E of the Omnibus Budget Reconciliation Act of 1981, shall be available notwithstanding section 670T(b) of that Act. — [1] 2,543,910,000

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, $1,119,907,000. — 1,119,907,000

[*Total, Assistant Secretary for Human Development, $6,363,817,000.*]

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $68,160,000, together with not to exceed $7,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein. — [1] 67,342,000
[1] *6,916,000 (limitation on trust fund transfer)*

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, $46,430,000, together with not to exceed $40,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein. — [1] 45,873,000
[1] *39,520,000 (limitation on trust fund transfer)*

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $16,173,000, together with not to exceed $4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein. — [1] 15,979,000
[1] *3,952,000 (limitation on trust fund transfer)*

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[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $7,946,000: *Provided,* That not less than $3,000,000 shall be obligated to continue research on poverty conducted by the Institute for Research on Poverty. [1] $7,851,000

[*Total, Departmental Management:*
[*New budget (obligational) authority* ..... *$137,045,000.*]
[*Limitation on trust fund transfer* ..... *50,388,000.*]

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director," may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 203. Appropriations in this or any other Act shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,400 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS–18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

SEC. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 206. Funds appropriated in this title for the Social Security Administration shall be available for not to exceed $10,000 for official reception and representation expenses when specifically approved by the Commissioner of Social Security.

SEC. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed $2,000 for each fiscal year for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

SEC. 208. No funds appropriated for the fiscal year ending September 30, 1989, by this or any other Act, may be used to pay basic pay, special pays, basic allowances for subsistence and basic allowances for quarters of the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level I annual rate of basic pay: *Provided,* That amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the services: *Provided further,* That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health.

SEC. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

SEC. 210. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 211. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service, who shall be exempt from all FTE limitations in the Department, to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization. In addition, commissioned officers assigned under this section shall be exempt from all limitations on the number and grade of officers in the Public Health Service Commissioned Corps.

SEC. 212. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 213. Funds available in this title for activities related to acquired immune deficiency syndrome (AIDS) may be transferred

between appropriation accounts upon the approval by the House and Senate Committees on Appropriations of a transfer request submitted by the Secretary of Health and Human Services.

SEC. 214. Funds made available for fiscal year 1989 and hereafter to the National Institutes of Health shall be available for payment of nurses and allied health professionals using pay, schedule options, benefits, and other authorities as provided for the nurses of the Veterans' Administration under 38 U.S.C. chapter 73.

SEC. 215. Of the funds appropriated in this Act for the National Institutes of Health, a reduction of $6,765,000 is to be applied to all appropriations as a result of improved procurement practices. [1, 2] (−$6,684,000)

SEC. 216. NIH Building Numbered 31 is hereby named the Claude Denson Pepper Building.

SEC. 217. Funds appropriated by this Act may be used to pay physicians' comparability allowances as authorized under 5 U.S.C. 5948.

SEC. 218. (a)(1) In enacting this section Congress hereby—

(A) recognizes the national and international legal protection granted chimpanzees under the Endangered Species Act and the Convention on International Trade of Endangered Species, to which the United States is a signatory, and also the World Health Organization's Policy Statement on Use of Primates for Biomedical Purposes, all of which acknowledges the threatened or endangered status of the chimpanzee; and

(B) acknowledges that substantial public monies are already being expended on a National Chimpanzee Breeding and Research Program in the United States.

(2) No funds appropriated under this Act or any other provisions of law shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds and be expended on any project that entails the capture or procurement of chimpanzees obtained from the wild.

(3) For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

SEC. 219. During the 12-month period beginning October 1, 1988, none of the funds made availalbe under this Act may be used to impose any reductions in payment, or to seek repayment from or to withhold any payment to any State pursuant to section 427 or 471 of the Social Security Act, as a result of a disallowance determination made in connection with a compliance review for any Federal fiscal year preceding Federal fiscal year 1989, until all judicial proceedings, including appeals, relating to such disallowance determination have been finally concluded, nor may such funds be used to conduct further compliance reviews with respect to any State which is a party to such judicial proceeding until such proceeding has been finally concluded.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1989".

[*Total, title II, Department of Health and Human Services:*	
[*New budget (obligational) authority*	*$111,147,857,000.*]
[*Appropriations, fiscal year 1989*	*96,300,857,000.*]
[*Definite*	*96,198,170,000.*]
[*Indefinite*	*102,687,000.*]
[*Advance appropriations, fiscal year 1990*	*14,847,000,000.*]
[*Limitation on administrative expenses*	*3,750,113,000.*]
[*Limitation on direct loans*	*494,000.*]
[*Limitation on trust fund expenses*	*80,000,000.*]
[*Limitation on trust fund transfer*	*1,860,621,000.*]

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.
[2] Included in totals for National Institutes of Health, (p. 296, this volume).

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, $4,625,755,000, of which a total of $8,000,000 for purposes of sections 1437 and 1463 and $4,000,000 for subpart 3 of part F, shall become available on October 1, 1988 and remain available until September 30, 1989, and may be expended by the Secretary at any time during that period; and the remaining $4,613,755,000 shall become available on July 1, 1989 and shall remain available until September 30, 1990: *Provided,* That of these remaining funds, $3,900,000,000 shall be available for the purposes of section 1005, $175,000,000 shall be available for the purposes of section 1006, $20,000,000 shall be available for the purposes of section 1017(d), $15,000,000 shall be available for the purposes of part B, $275,000,000 shall be available for the purposes of subpart 1 of part D, $150,000,000 shall be available for the purposes of subpart 2 of part D, $32,000,000 shall be available for the purposes of subpart 3 of part D, $41,000,000 shall be available for the purposes of section 1404, and $5,755,000 shall be available for the purposes of section 1405: *Provided further,* That no State shall receive less than $340,000 under section 1006 from the amounts made available under this appropriation for section 1006. [1] $4,570,246,000

For carrying out section 418A of the Higher Education Act, $9,000,000. [1] 8,892,000

[*Total, Compensatory Education for the Disadvantaged, $4,579,138,000.*]

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), $717,000,000, of which $15,000,000 shall be for entitlements under section 2 of said Act, and $702,000,000 shall be for entitlements under section 3 of said Act of which $565,000,000 shall be for entitlements under section 3(a) of said Act: *Provided,* That any school district that received an overpayment under section 2 in fiscal year 1984 funds and also received, through administrative offset, 30.13 per centum of such sum in an overpayment of the subsequent fiscal year's funds, is relieved of the liability to repay those sums, together with interest on such sums. [1] 708,396,000

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), $25,000,000, which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which $10,000,000 shall be for awards under section 10 of said Act, $12,000,000 shall be for awards under sections 14(a) and 14(b) of said Act, and $3,000,000 shall be for awards under sections 5 and 14(c) of said Act. [1] 24,700,000

[*Total, Impact Aid, $733,096,000.*]

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I, part A of title II, title III, part A, part B, subpart 1 and subpart 2 of part C, and part E of title IV, sections 4601, 4604, and 4605, title V, and parts A and C of title VI of the Elementary and Secondary Education Act of 1965, as amended; section 722 of the Stewart B. McKinney Homeless Assistance Act; section 403 of the Civil Rights Act of 1964; subpart 2 of part C and subpart 2 of part D of title V of the Higher Education Act, as amended; part B of title III and title IV of Public Law 100-297; title IX of the Education for Economic Security Act; and the Follow Through Act, $1,123,075,000: *Provided,* That of the amounts provided, $497,700,000 shall be for chapter 2 of [1] 1,109,599,000

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

title I of the Elementary and Secondary Education Act, of which $468,600,000 for part A shall become available on July 1, 1989 and remain available until September 30, 1990 and $29,100,000 for part B including $1,000,000 for national school volunteer programs shall become available on October 1, 1988: *Provided further,* That $130,000,000 for grants to States and Outlying Areas under part A of title II, $8,000,000 for part B, $3,000,000 for subpart 1 and $500,000 for subpart 2 of part C of title IV, and $207,000,000 for grants to States and Outlying Areas under title V of the Elementary and Secondary Education Act, $4,358,000 for subpart 2 of part C of title V of the Higher Education Act, and $4,893,000 for section 722 of the Stewart B. McKinney Homeless Assistance Act shall become available on July 1, 1989 and shall remain available until September 30, 1990: *Provided further,* That, of the amounts provided, $115,000,000 shall be for title III, $9,000,000 shall be for section 2012 and $1,500,000 shall be for section 6201(d) of the Elementary and Secondary Education Act.

Unobligated balances of funds appropriated for fiscal years 1985 and 1986 for title VI of the Education for Economic Security Act shall be available until September 30, 1989 for carrying out activities authorized by part F of title IV of which not less than $1,000,000 shall be for activities authorized by section 4603 of the Elementary and Secondary Education Act.

BILINGUAL, IMMIGRANT, AND REFUGEE EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act and part B of title III of the Refugee Act of 1980, $199,791,000, of which $112,106,000 shall be for part A, $10,903,000 shall be for part B, $30,782,000 shall be for part C of title VII, except that no funds shall be used for activities authorized by section 7043 until an interim report is submitted to the House and Senate Appropriations Committees which the Secretary shall submit no later than eight months following the enactment of this appropriations Act in partial compliance with section 6212 of Public Law 100-297 and such sums are released under further statutory Act of Congress, and $30,000,000 shall be for part D of title IV of the Elementary and Secondary Education Act. [1] $197,394,000

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, $1,990,321,000 of which $5,213,000 shall be for carrying out title I of S. 2561, as enacted, and of which $1,493,369,000 for section 611, $250,000,000 for section 619, and $70,679,000 for section 685 shall become available for obligation on July 1, 1989, and shall remain available until September 30, 1990: *Provided,* That up to $479,000 may be used for section 621(d) of said Act. [1] 1,966,438,000

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973 and the Helen Keller National Center Act, as amended, $1,667,570,000, of which $1,450,000,000 shall be for allotments under sections 100(b)(1) and 110(b)(3) of the Rehabilitation Act, $17,200,000 shall be for special demonstration programs under sections 311 (a), (b), and (c), $750,000 shall be for carrying out section 202(j)(1), and $4,900,000 shall be for the Helen Keller National Center. [2] 1,667,570,000

Of the funds provided under the heading "Rehabilitation Services and Handicapped Research" in fiscal year 1987 in Public Law 99-500 and Public Law 99-591, for carrying out the Rehabilitation Act

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.
[2] Department of Education interpretation of section 517 of this Act, indicated in letter of December 12, 1988, reduces this amount to $1,656,532,000.

of 1973, which are unobligated, the sum of $500,000 is reappropriated for an allotment under section 100(b)(1) of the Rehabilitation Act of 1973 to Montana for obligations incurred by Montana during fiscal year 1987. $500,000

[*Total, Rehabilitation Services and Handicapped Research, $1,668,070,000.*]

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, the Adult Education Act including section 372 of said Act, and section 702 of the Stewart B. McKinney Homeless Assistance Act, $1,086,504,000 which shall become available for obligation on July 1, 1989, and shall remain available until September 30, 1990: *Provided,* That $26,321,000 shall be available for title IV of the Carl D. Perkins Vocational Education Act, of which $7,050,000 shall be for part A, including $5,744,000 for section 404, $14,556,000 shall be for section 411 and $215,000 shall be for section 415 of part B, and $4,500,000 shall be for part C of said title: *Provided further,* That $8,000,000 shall be available for State councils under section 112 of the Carl D. Perkins Vocational Education Act: *Provided further,* That $9,000,000 shall be made available to carry out title III-A and $33,520,000 shall be made available for title III-B of said Vocational Education Act: *Provided further,* That $3,817,000 shall be available for part E of title IV of the Carl D. Perkins Vocational Education Act: *Provided further,* That $2,000,000 provided herein for part D of the Adult Education Act shall be only for section 383 of said Act. [1] 1,073,466,000

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C, D, and E of title IV of the Higher Education Act, as amended, $5,884,671,000, which shall remain available until September 30, 1990: *Provided,* That the maximum Pell grant that a student may receive in the 1989-90 award year shall be $2,300: *Provided further,* That notwithstanding section 479A of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further,* That notwithstanding section 411F(1) of the Higher Education Act of 1965, as amended (20 U.S.C. 1001 et seq.), the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary of Education, mean the sum received in the first calendar year of the award year from the sources described in that section: *Provided further,* That notwithstanding section 484 of the Higher Education Act of 1965, as amended (20 U.S.C. 1001 et seq.), in order for a student to be eligible to receive grant, loan, or work assistance under title IV of that Act, that student shall be required to have earned a high school diploma or its recognized equivalent if (1) that student is enrolled or accepted for enrollment in a course of study of less than one year in preparation for an occupation for which the student must be certified by an agency other than the eligible institution or institution of higher education in order to begin practice or service, and (2) a high school diploma or its recognized equivalent is a requirement for that certification. [1, 2] 5,814,056,000

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.
[2] Department of Education interpretation of section 517 of this Act, indicated in letter of December 12, 1988, increases this amount to $5,814,320,000.

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, $3,174,400,000, to remain available until expended. $3,174,400,000

HIGHER EDUCATION

For carrying out title III of the Higher Education Act of 1965, as amended, $176,697,000, of which up to $12,850,000 for section 332 of part C of title III of said Act shall remain available until expended: *Provided,* That $85,447,000 of funds appropriated for title III of said Act shall be available only to historically black colleges and universities, of which $4,500,000 is available until expended for the cost of construction and related costs for a Health and Human Resources Center at Voorhees College in Denmark, South Carolina, when an authorization for such Center is enacted into law: *Provided further,* That up to $7,300,000 of funds appropriated for part A of title III of said Act shall be available for non-competing continuation awards made to four-year institutions in fiscal year 1988. [1,2] 174,577,000

For carrying out subparts 4 and 6 of part A of title IV; part B and subpart 1 of part D of title V; titles VI and VIII; part D of title VII; parts A, B, C, D, E, and F of title IX; subpart 1 of part B and parts A and C of title X; and sections 420A and 1204(c) of the Higher Education Act of 1965, as amended; title XIII, part H, subpart 1 of the Education Amendments of 1980, as amended; and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961, $388,257,000, of which $22,744,000 for part D of title VII shall remain available until expended: *Provided,* That $8,300,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d–37(b) and 1070d–39(a)): *Provided further,* That $1,500,000, of the amount provided herein for subpart 4 of part A of title IV of the Higher Education Act shall be for the Ronald E. McNair Post-Baccalaureate Achievement Program: *Provided further,* That the Secretary shall, in carrying out section 802 of the Higher Education Act of 1965, give special consideration to applications from private urban institutions of higher education, or combinations thereof, with minority student enrollment exceeding 66 percent of total student enrollment, and with plans to develop from a traditional academic curriculum to a universal cooperative education program applicable to all undergraduate four year major fields of study: *Provided further,* That an additional amount of $5,750,000 shall be made available, of which $5,000,000 shall be made available for part D of title I of the Higher Education Act of 1965, relating to the student literacy corps program, to become available on July 1, 1989, and remain available until September 30, 1990, and $750,000 shall be made available for section 6261 of the Omnibus Trade and Competitiveness Act of 1988, relating to international business education centers. [1] 383,597,000

[1] 5,682,000

[Total, Higher Education, $563,856,000.]

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation: *Provided,* That during fiscal year 1989, gross commitments for the principal amount of direct loans shall be $30,000,000. [1] 29,640,000

For payment of interest on funds borrowed from the Treasury pursuant to section 761(d) of the Higher Education Act, as amended, $1,675,000, to remain available until expended. *(recapture of payments)* [1,2] 1,655,000

[Total, College Housing and Academic Facilities Loans, $31,295,000.]

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.
[2] Department of Education interpretation of section 517 of this Act, indicated in letter of December 12, 1988, increases this amount to $1,675,000.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year. For the fiscal year 1989, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE HOUSING LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loan program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH AND STATISTICS

For necessary expenses to carry out section 405 of the General Education Provisions Act, as amended, $47,651,000: *Provided,* That $5,200,000 of the sums appropriated shall be used to continue a rural education program by the nine regional laboratories. [1] $47,079,000

For necessary expenses to carry out section 406 of the General Education Provisions Act, as amended by Public Law 100-297, $22,000,000, and an additional $9,500,000 shall be for the National Assessment of Educational Progress. [1] 21,736,000 [1] 9,386,000

[*Total, Education Research and Statistics, $78,201,000.*]

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and title II, parts B, C, and D of the Higher Education Act, notwithstanding the provisions of section 221, $138,866,000: *Provided,* That $22,595,000 of the sums appropriated shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended: *Provided further,* That the State of Illinois is relieved of all liability to repay the United States the sum of $14,547,769 representing payments made to Illinois under the Library Services and Construction Act for fiscal years 1977 through 1986 which were disallowed because of a pioneering nature of the program for libraries in that State and, in the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this proviso. [1] 137,200,000

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-106), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, $5,400,000. [1] 5,335,000

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $33,731,000, of which $200,000 shall be for the endowment program as authorized under section 408 and shall be available until expended: *Provided,* That none of the funds provided herein may be used to subsidize the tuition of foreign students. [1] $33,326,000

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), including continuing education activities, existing extension centers and the National Center for Law and the Deaf, $66,800,000, of which $1,000,000 shall be for the endowment program as authorized under section 407 and shall be available until expended. [1] 65,998,000

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $180,647,000: *Provided,* That of the funds appropriated under this head in the Department of Education Appropriations Act, 1988, not to exceed $500,000 together with $1,500,000 provided herein shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98-480) and shall remain available until expended. [1] 178,479,000 [1] 494,000

[*Total, Howard University, $178,973,000.*]

[*Total, Special Institutions, $283,632,000.*]

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $258,600,000, of which $500,000 shall be available until expended for carrying out the National Summit Conference on Education Act of 1984, $5,200,000 shall be available only for additional staff and related expenses necessary to increase the number of on-site student aid program reviews, and of which $5,600,000 shall be available for necessary expenses of the National Student Loan Data System upon enactment of amendments to section 485B of the Higher Education Act which will decrease student loan and default costs by more than the cost of the system on an annual basis. [1] 255,497,000

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $41,341,000. [1] 40,845,000

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $18,400,000. [1] 18,179,000

[*Total, Department Management, $314,521,000.*]

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the costs of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to audit by the Secretary of Education.

SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1989".

[*Total, title III, Department of Education, new budget (obligational) authority, $21,724,362,000.*]

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $170,465,000. [1] $168,420,000

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1991, $302,500,000 of which $57,500,000 shall be available for section 396(k)(10) of said Act: *Provided,* That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further,* That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: *Provided further,* That funds provided herein for fiscal year 1991 shall be available pending authorization. [1] 298,870,000 *(advance appropriation, fiscal year 1991)*

COMMISSION ON RAILROAD RETIREMENT REFORM

For necessary expenses of the Commission on Railroad Retirement Reform established by section 9033 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), $1,000,000, which shall remain available until expended. [1] 988,000

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $26,127,000. [1] 25,813,000

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $4,079,000. [1] 4,030,000

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

NATIONAL COMMISSION ON CHILDREN

For necessary expenses of the National Commission on Children established by section 9136 of the Omnibus Reconciliation Act of 1987, Public Law 100-203, $800,000, which shall remain available until expended. [1] $790,000

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99-660, $500,000, which shall remain available until expended. Notwithstanding any other provision of law, the Commission shall be composed of sixteen members, including seven at large members. Furthermore, the Commission has the power to accept voluntary and uncompensated services, notwithstanding section 1342 of title 31, and shall continue operating, notwithstanding sections 208 and 209 of Public Law 99-660. [1] 494,000

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), $750,000. [1] 741,000

NATIONAL COMMISSION ON MIGRANT EDUCATION

For necessary expenses of the National Commission on Migrant Education established by section 1439 of Public Law 100-297, $2,000,000 to become available on April 1, 1989 and which shall remain available until expended. [1] 1,976,000

NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION

For necessary expenses of the National Commission on Responsibilities for Financing Postsecondary Education established by section 1321 of the Higher Education Amendments of 1986 (Public Law 99-498), $800,000, which shall remain available until expended. [1] 790,000

NATIONAL COUNCIL ON THE HANDICAPPED

SALARIES AND EXPENSES

For expenses necessary for the National Council on the Handicapped as authorized by section 405 of the Rehabilitation Act of 1973, as amended, $1,174,000. [1] 1,160,000

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $138,647,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. [1] 136,983,000

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $6,551,000. [1] $6,472,000

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $5,916,000. [1] 5,845,000

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $3,059,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund. [1] *3,022,000 (limitation on trust fund transfer)*

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 601 of Public Law 98–21, $3,664,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds. [1] *3,620,000 (limitation on trust fund transfer)*

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $355,000,000, which shall include amounts becoming available in fiscal year 1989 pursuant to section 224(c)(1)(B) of Public Law 98–76: *Provided*, That the total amount provided herein shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year. [1] 350,740,000

—28,000,000 *(less income tax receipts)*

[*Total, Dual Benefit Payments Account, $322,740,000.*]

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for unnegotiated checks, $3,100,000, to remain available through September 30, 1990, which shall be the maximum amount available for payments pursuant to section 417 of Public Law 98–76. 3,100,000

[1] Extended figures and subtotals reflect 1.2 percent reduction provided in section 517 of this Act.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $60,350,000, to be derived from the railroad retirement accounts: *Provided,* That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further,* That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a–r).

[1] *$59,626,000 (limitation on administrative expenses)*

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $13,950,000 shall be apportioned for fiscal year 1989 from moneys credited to the railroad unemployment insurance administration fund.

[1] *13,783,000 (limitation on administrative expenses)*

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Railroad Retirement Board for audit, investigatory and review activities, as authorized by section 418 of Public Law 98–76, not more than $3,100,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

[1] *3,063,000 (limitation on administrative expenses)*

[*Total, Railroad Retirement Board, $325,840,000.*]

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $37,700,000: *Provided,* That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

[1] 37,248,000 *(trust funds)*

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $15,000,000, to remain available until expended: *Provided further,* That funds provided under this paragraph as well as $15,000,000 provided for Capital Outlay in Public Law 100–202 shall, immediately upon enactment of this Act, be made available for the construction of a 200-bed Intermediate Care Facility on the grounds of the LaGarde building.

[1] 14,820,000 *(trust funds)*

[*Total, Soldiers' and Airmen's Home, $52,068,000.*]

UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE

For necessary expenses of the United States Bipartisan Commission on Comprehensive Health Care established by section 401 of the Medicare Catastrophic Coverage Act of 1988, $1,046,000, which shall remain available until expended.

[1] 1,033,000

[1] Extended figures and subtotals reflect a 1.2 percent reduction provided in section 517 of the Act.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $7,000,000. [1] $6,916,000

[*Total, title IV, Related Agencies:*
[*New budget (obligational) authority* ..... *$1,039,229,000.*]
[*Appropriations, fiscal year 1989* ..... *740,359,000.*]
[*Advance appropriation, fiscal year 1991*..... *298,870,000.*]
[*Limitation on administrative expenses* ..... *76,472,000.*]
[*Limitation on trust fund transfer* ..... *6,642,000.*]

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided,* That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative

[1] Extened figures and subtotals reflect a 1.2 percent reduction provided in section 517 of this Act.

relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Health and Human Services, and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 512. In administering funds made available under this Act for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as expeditiously as possible and with as many subjects as is scientifically acceptable.

SEC. 513. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 514. (a) Subject to subsection (b), none of the funds made available by this or any other Act may be used by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) The prohibition established in subsection (a) shall apply until the California Supreme Court has rendered a final disposition in the case of Ixta v. Rinaldi (Case No. 3 Civil C 002805).

SEC. 515. (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 per centum of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and support services for research and development activities; engineering development and operational systems development; technical representatives; training; quality control, testing, and inspection services; specialized medical services; and public relations; in excess of an amount equal to 95 per centum of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) As used in this section, the term "consulting services" includes any service within the definition of "Advisory and Assistance Services" in Office of Management and Budget Circular A-120, dated January 4, 1988.

(d) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the increase in rates of pay in such department, agency, or instrumentality made under this Act.

(e) The limitations contained in subsection (a) shall not apply to the Offices of Inspector General of the departments, agencies, and instrumentalities of the United States Government receiving appropriated funds under this Act. Neither shall the limitations in subsection (a) apply to routine, on-going activities which departments, agencies and instrumentalities provide through contract as part of their regular mission.

SEC. 516. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

SEC. 517. Notwithstanding any other provision of this Act, funds appropriated or otherwise made available which are not mandated by law for programs, projects or activities funded by this Act shall be reduced by 1.2 per centum.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989".

Approved September 20, 1988.

LEGISLATIVE HISTORY—H.R. 4783

HOUSE REPORTS: No. 100-689 (Comm. on Appropriations) and No. 100-880 (Comm. of Conference).
SENATE REPORT No. 100-399 (Comm. on Appropriations).
CONGRESSIONAL RECORD: Vol. 134 (1988):
June 10, reported in the House.
June 15, considered and passed House.
June 23, reported in the Senate.
July 25-27, considered and passed Senate, amended.
Sept. 9, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Sept. 12, Senate agreed to conference report; agreed to certain House amendments and insisted on its amendment No. 126.
Sept. 13, Senate receded from its amendment.

Grand total:	
New budget (obligational) authority	[1] $140,374,129,000
Appropriations, fiscal year 1989	(125,228,259,000)
Appropriations, definite	(125,124,816,000)
Appropriations, indefinite	(103,443,000)
Advance appropriations, fiscal year 1990	(14,847,000,000)
Advance appropriation, fiscal year 1991	(298,870,000)
Limitation on administrative expenses	*(3,826,585,000)*
Limitation on direct loans	*(494,000)*
Limitation on trust fund expenses	*(80,000,000)*
Limitation on trust fund transfers	*(4,628,815,000)*
Total, new budget (obligational) authority, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989	[1] $140,374,129,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1989 contained in the foregoing annual appropriations act, the following additional amounts are available for the Departments of Labor, Health and Human Services, and Education for the fiscal year:

Permanent appropriations:	
Federal funds (pp. 2225–2226)	$21,199,313,000
Trust funds (pp. 2243, 2245)	421,526,578,000
Appropriations in legislative acts:	
Federal Disability Insurance Trust Fund, trust funds (P.L. 100–647) (p. 2353)	−1,000,000
Federal Hospital Insurance Trust Fund, trust funds (P.L. 100–360) (p. 2353)	−43,000,000
Federal Hospital Insurance Trust Fund, trust funds (P.L. 100–647) (p. 2353)	−4,000,000
Federal Old-Age and Survivors Insurance Trust Fund, trust funds (P.L. 100–647) (p. 2353)	−14,000,000
Federal Supplementary Medical Insurance Trust Fund, trust funds (P.L. 100–360) (p. 2353)	1,140,000,000
Hospital Insurance Reserve Fund, trust funds (P.L. 100–360) (p. 2353)	330,000,000
Unemployment Trust Fund, trust funds (P.L. 100–647) (p. 2353)	8,000,000
Advance appropriations for fiscal year 1989 made during previous session of Congress:	
100th Cong., 1st session:	
Department of Health and Human Services:	
Health Care Financing Administration: Grants to States for Medicaid (p. 383, 1987–1988 volume)	[2] *(8,000,000,000)*
Social Security Administration:	
Special benefits for disabled coal miners (p. 384, 1987–1988 volume)	[2] *(250,000,000)*
Supplemental security income program (p. 384, (1987–1988 volume)	[2] *(3,000,000,000)*
Family Support Payments to States (p. 385, 1987–1988 volume)	[2] *(2,500,000,000)*
Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989:	
Department of Health and Human Services: Office of Consumer Affairs (p. 218)	1,708,000
Department of the Interior and Related Agencies Appropriations Act, 1989:	
Department of Health and Human Services: Indian Health Service (pp. 270–273)	1,081,774,000
Department of Education: Indian Education (p. 273)	71,553,000
Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989:	
Department of Health and Human Services: Food and Drug Administration (pp. 384–385)	531,406,000
Urgent Supplemental Appropriations Act of 1989 To Meet the Dire Emergency Created by the Crisis of Drug Abuse (P.L. 100–690):	
Department of Education (p. 470)	108,000,000
Department of Health and Human Services:	
Alcohol, Drug Abuse, and Mental Health Administration (p. 469)	283,000,000
Family Support Services (p. 470)	3,000,000

[1] Extended figures and subtotals reflect 1.2 percent reduction provided in section 517 of this Act.
[2] Also included under "Permanent appropriations, Federal funds".

Human Development Services (p. 470)	$30,000,000	
Food and Drug Administration (p. 470)	5,000,000	
Department of Labor: Departmental Management (p. 469)	2,000,000	
Subtotal, additions		$446,259,332,000
Deduct advance appropriations for fiscal years 1990 and 1991 and amounts transferred to the General Government and Defense—Civil functions totals:		
Advance appropriations for fiscal year 1990:		
Department of Health and Human Services:		
Health Care Financing Administration:		
Grants to States for Medicaid (p. 298)	$9,000,000,000	
Social Security Administration:		
Special benefits for disabled coal miners (p. 299)	211,000,000	
Supplemental security income program (p. 300)	2,936,000,000	
Family Support Administration:		
Family support payments to States (p. 301)	2,700,000,000	
Advance appropriation for fiscal year 1991:		
Corporation for Public Broadcasting (p. 313)	298,870,000	
General Government:		
Action (p. 313)	168,420,000	
Commission on Railroad Retirement Reform (p. 313)	988,000	
Federal Mediation and Conciliation Service (p. 313)	25,813,000	
Federal Mine Safety and Health Review Commission (p. 313)	4,030,000	
National Commission on Children (p. 314)	790,000	
National Commission on Libraries and Information Science (p. 314)	741,000	
National Commission on Migrant Education (p. 314)	1,976,000	
National Commission on Responsibilities for Financing Postsecondary Education (p. 314)	790,000	
National Commission to Prevent Infant Mortality (p. 314)	494,000	
National Council on the Handicapped (p. 314)	1,160,000	
National Labor Relations Board (pp. 314-315)	136,983,000	
National Mediation Board (p. 315)	6,472,000	
Occupational Safety and Health Review Commission (p. 315)	5,845,000	
Railroad Retirement Board:		
Dual benefits payments account (p. 315)	322,740,000	
Federal payments to the Railroad Retirement Accounts (p. 315)	3,100,000	
United States Bipartisan Commission on Comprehensive Health Care (p. 316)	1,033,000	
United States Institute of Peace (p. 317)	6,916,000	
Defense—Civil: Soldiers' and Airmen's Home (p. 316)	52,068,000	
Subtotal, deductions		−15,886,229,000
Grand total, Departments of Labor, Health and Human Services, and Education		[1] 570,747,232,000

[1] Extended figures and subtotals reflect 1.2 percent reduction provided in section 517 of this Act.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1989

Public Law 100-458

100th Congress, H.R. 4587

October 1, 1988

AN ACT

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—CONGRESSIONAL OPERATIONS

SUBTITLE A—CONGRESSIONAL OPERATIONS

SENATE

MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, MAJORITY AND MINORITY WHIPS, AND CHAIRMEN OF THE MAJORITY AND MINORITY CONFERENCE COMMITTEES

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000. $60,000

EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, MAJORITY AND MINORITY WHIPS, AND CHAIRMEN OF THE MAJORITY AND MINORITY CONFERENCE COMMITTEES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000. 56,000

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $10,000 for each such Leader; in all, $20,000. 20,000

[*Total, expense allowances, $76,000.*]

[*Total, Vice President and Senators, $136,000.*]

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, $49,255,000 which shall be paid from this appropriation without regard to the below limitations, as follows: $49,255,000

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,168,000. (1,168,000)

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $156,000. (156,000)

OFFICE OF THE DEPUTY PRESIDENT PRO TEMPORE

For the Office of the Deputy President Pro Tempore, $23,000. (23,000)

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,416,000. (1,416,000)

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $440,000. (440,000)

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $567,500 for each such committee; in all, $1,135,000. (1,135,000)

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $279,000. (279,000)

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $117,000. (117,000)

OFFICE OF THE SECRETARY

For Office of the Secretary, $8,165,000. (8,165,000)

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $24,987,000. (24,987,000)

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $944,000. (944,000)

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, $10,425,000. (10,425,000)

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $1,799,000: *Provided*, That the amounts appropriated to the Office of the Legislative Counsel of the Senate for fiscal year 1988 shall remain available until September 30, 1989. 1,799,000

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $646,000. $646,000

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000. 12,000

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,101,500 for each such committee; in all, $2,203,000. 2,203,000

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, $62,673,000. 62,673,000

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $325,000. 325,000

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $727,200. 727,200

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $65,643,000. [1] 65,643,000

MISCELLANEOUS ITEMS

For miscellaneous items, $6,180,000. 6,180,000

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $151,065,000. 151,065,000

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000. 13,000

[*Total, contingent expenses of the Senate,* [1] *$288,829,200.*]

[1] Excludes carryover of funds appropriated in fiscal year 1988 in the amount of $3,600,000 to fiscal year 1989 (Administrative Provisions, sec. 11, p. 328, this volume).

ADMINISTRATIVE PROVISIONS

SECTION 1. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1989, at his election, transfer not more than $50,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

SEC. 2. Funds appropriated to the Conference of the Majority and funds appropriated to the Conference of the Minority for the fiscal year ending September 30, 1989, may be utilized in such amounts as the Chairman of each Conference deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate.

SEC. 3. (a) The Secretary of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Secretary of the Senate, such sums as he shall specify to the Senate appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Secretary"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

(b) The Sergeant at Arms and Doorkeeper of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, such sums as he shall specify to the appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Sergeant at Arms and Doorkeeper"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

SEC. 4. Section 101 of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h-6) is amended by inserting "President Pro Tempore," immediately before "Majority Leader" each place it appears therein.

SEC. 5. The Committee on Rules and Administration of the Senate may provide for the distribution of unused food from the Senate cafeterias under the jurisdiction of the committee to the needy of the District of Columbia through an appropriate private distribution organization selected by the committee.

SEC. 6. Effective with the fiscal year ending September 30, 1988, section 117 of the Second Supplemental Appropriations Act, 1976 (2 U.S.C. 61f-1a), is amended by striking out "not to exceed $167,000 during any fiscal year" and inserting in lieu thereof "not to exceed $250,000 during any fiscal year".

SEC. 7. Section 117 of Public Law 97-51 (2 U.S.C. 61f-8) is amended by striking out "from the contingent fund of the Senate an amount not to exceed $210,000 for:" and inserting in lieu thereof "from the

account for the Sergeant at Arms and Doorkeeper of the Senate, within the contingent fund of the Senate, an amount not to exceed $300,000:".

SEC. 8. (a) Section 506(a)(9) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(9)) is amended by striking out "necessary" and all that follows, and inserting in lieu thereof "necessary.".

(b) The amendment made by subsection (a) shall be effective only in the case of expenses incurred on or after October 1, 1988.

SEC. 9. Section 101 of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h–6) is amended—

(1) in the first sentence thereof, by striking out "Minority Leader", and

(2) by inserting immediately after the first sentence thereof the following new sentence: "The Minority Leader of the Senate is authorized to appoint and fix the compensation of not more than four individual consultants, on a temporary or intermittent basis, at a daily rate of compensation not in excess of that specified in the preceding sentence.".

SEC. 10. (a) The Sergeant at Arms and Doorkeeper of the Senate is authorized to employ, and fix the compensation of such employees as he determines necessary to operate the Senate Beauty Shop.

(b)(1) Section 106(a) of the Legislative Branch Appropriations Act, 1977 (2 U.S.C. 121a) is amended by deleting "Senate Barber Shops Revolving Fund" and inserting in lieu thereof "Senate Barber and Beauty Shops Revolving Fund".

(2) Section 106(b) of the Legislative Branch Appropriations Act, 1977 (2 U.S.C. 121a) is amended to read as follows:

"(b) All moneys received by the Senate Barber Shop and the Senate Beauty Shop from fees for services or from any other source shall be deposited to the credit of the revolving fund. Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for necessary equipment, supplies, and expenses of the Senate Barber and Beauty Shops.".

(c) Any individual who, on the date of the enactment of this section, is an employee of the Senate Building Beauty Shop and who, after having been employed by the Sergeant at Arms and Doorkeeper pursuant to subsection (a) of this section, attains 5 years of civilian service creditable under section 8411 of title 5, United States Code, other than service credited pursuant to subsection (d) of this section, may be credited under such section for any service as an employee of the Senate Building Beauty Shop prior to such date of enactment, if such employee makes a payment of the amount, determined by the Office of Personnel Management, that would have been deducted and withheld from the basic pay of such employee under section 8422 of title 5, United States Code, for such period so credited, together with interest thereon.

(d) Notwithstanding any other provision of this section, any service performed by an individual in the Senate Building Beauty Shop prior to the date of the enactment of this section is deemed to be civilian service creditable under section 8411 of title 5, United States Code, for purposes of qualifying for survivor annuities and disability benefits under subchapters IV and V of chapter 84 of title 5, United States Code, if such individual—

(1) on the date of the enactment of this Act, is an employee of the Senate Building Beauty Shop;

(2) on or after the date of such enactment is employed by the Sergeant at Arms and Doorkeeper pursuant to subsection (a) of this section; and

(3) payment is made of an amount, determined by the Office of Personnel Management, which would have been deducted and withheld from the basic pay of such employee under section 8422 of title 5, United States Code, for such period so credited, together with interest thereon.

(e) The Office of Personnel Management shall accept the certification of the Secretary of the Senate concerning creditable service for the purpose of this section.

(f) The foregoing provisions of this section shall take effect on October 1, 1988.

SEC. 11. Of the funds available under the head "Contingent Expenses of the Senate" for the Sergeant at Arms and Doorkeeper of the Senate, for fiscal year 1988, $3,600,000 shall remain available until September 30, 1989. [1] *($3,600,000) (reappropriation)*

SEC. 12. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to paring facilities for the Senate issued by the Committee on Rules and Administration.

SEC. 13. Section 506(a)(3) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(3)) is amended by inserting "postage on, and fees and charges in connection with, mail matter sent through the mail under the franking privilege in excess of amounts provided from the appropriation for official mail costs, upon certification by the Senate Sergeant at Arms and subject to such regulations as may be promulgated by the Committee on Rules and Administration of the Senate, and" before "reimbursement".

SEC. 14. (a) Section 506(a)(9) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(9)) is amended by striking out "necessary" and all that follows, and inserting in lieu thereof "necessary.".

(b) The amendment made by subsection (a) shall be effective only in the case of expenses incurred on or after October 1, 1988.

[Total, Senate, [2] *$340,677,200.]*

HOUSE OF REPRESENTATIVES

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000. ([3]) 210,000

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $505,500,000, as follows: 505,500,000

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $4,024,000, including: Office of the Speaker, $902,000, including $18,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $828,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $926,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $733,000, including $5,000 for official expenses of the Majority Whip and not to exceed $162,950, for the Chief Deputy Majority Whip; Office of the Minority Whip, $635,000, including $5,000 for official expenses of the Minority Whip and not to exceed $80,740, for the Chief Deputy Minority Whip. (4,024,000)

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $178,828,000. (178,828,000)

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[1] Extends the availability of funds only. Does not appropriate new amount.

[2] Excludes carryover of funds appropriated in fiscal year 1988 in the amount of $3,600,000 to fiscal year 1989 (Administrative Provisions, sec. 11, p. 328, this volume).

[3] "Payments to Widows and Heirs of Deceased Members of Congress", $358,000, was appropriated under title III, sec. 307A (see p. 346, this volume).

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $51,067,000. ($51,067,000)

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $336,000. (336,000)

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $54,092,000. (54,092,000)

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $177,163,000, including: Official Expenses of Members, $82,068,000; supplies, materials, administrative costs and Federal tort claims, $21,193,000; furniture and furnishings, $1,265,000; stenographic reporting of committee hearings, $800,000; reemployed annuitants reimbursements, $1,380,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $69,835,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions and gratuities to heirs of deceased employees of the House, $622,000. (177,163,000)

Such amounts as are deemed necessary for the payment of allowances and expenses under this heading may be transferred among the various categories of allowances and expenses under this heading, upon the approval of the Committee on Appropriations of the House of Representatives.

[*Total, contingent expenses of the House, $231,255,000.*]

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $4,429,000. (4,429,000)

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $35,561,000, including: Office of the Clerk, $15,905,000; Office of the Sergeant at Arms, $951,000; Office of the Doorkeeper, including overtime, as authorized by law, $7,525,000; Office of the Postmaster, $2,610,000, including $49,570 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $17,101 per annum each; Office of the Chaplain, $78,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $746,000; for salaries and expenses of the (35,561,000)

Office for the Bicentennial of the House of Representatives, $261,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $954,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $3,222,000; six minority employees, $521,000; the House Democratic Steering Committee and Caucus, $803,000; the House Republican Conference, $803,000; and other authorized employees, $1,182,000.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this heading may be transferred among the various offices and activities under this heading, upon the approval of the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. Of the amounts appropriated for fiscal year 1989 for salaries and expenses of the House of Representatives, such amounts as may be necessary may be transferred among the headings "HOUSE LEADERSHIP OFFICES", "MEMBERS' CLERK HIRE", "COMMITTEE EMPLOYEES", "CONTINGENT EXPENSES OF THE HOUSE (STANDING COMMITTEES, SPECIAL AND SELECT)", "CONTINGENT EXPENSES OF THE HOUSE (ALLOWANCES AND EXPENSES)", and "SALARIES, OFFICERS AND EMPLOYEES", upon approval of the Committee on Appropriations of the House of Representatives.

SEC. 102. Effective for fiscal years beginning with fiscal year 1989, the additional amount appropriated as a joint item for the Capitol Police Board in chapter IX of title I of the Urgent Supplemental Appropriations Act, 1986, shall be transferred from the Clerk of the House to the Architect of the Capitol and disbursed by the Architect of the Capitol, subject to the review, approval, and other procedures specified with respect to such appropriation.

SEC. 103. Effective for fiscal years beginning with fiscal year 1989, the annual rate of pay for the positions established by section 103(a) of the Legislative Branch Appropriations Act, 1986, and the positions established by section 102(a) of the Legislative Branch Appropriations Act, 1988, shall not exceed the annual rate of pay payable from time to time for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

[*Total, House of Representatives,* [1] *$506,068,000.*]

JOINT ITEMS

For joint committees, as follows:

JOINT COMMITTEE ON INAUGURAL CEREMONIES OF 1989

For construction of platform and seating stands and for salaries and expenses of conducting the inaugural ceremonies of the President and Vice President of the United States, January 20, 1989, in accordance with such program as may be adopted by the joint committee authorized by Senate Concurrent Resolution 105, One Hundredth Congress, agreed to March 18, 1988, $775,000, to remain available until September 30, 1989. Such funds shall be available for such salaries (when paid on a reimbursable basis) and expenses, whether incurred on, before, or after, October 1, 1988. $775,000

CONTINGENT EXPENSES OF THE SENATE

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $3,330,000. 3,330,000

[1] Includes $358,000 appropriated under title III, sec. 307A (see p. 346, this volume).

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,143,000. $1,143,000

[*Total, contingent expenses of the Senate, $4,473,000.*]

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $4,346,000, to be disbursed by the Clerk of the House. 4,346,000

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,000 per month to the Attending Physician; (2) an allowance of $600 per month to one Senior Medical Officer while on duty in the Attending Physician's office; (3) an allowance of $200 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of $200 per month each to not to exceed twelve assistants on the basis heretofore provided for such assistance; and (5) $998,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,414,000, to be disbursed by the Clerk of the House. 1,414,000

CAPITOL POLICE BOARD

CAPITOL POLICE

SALARIES

For the Capitol Police Board for salaries, including overtime, and Government contributions to employees' benefits funds, as authorized by law, of officers, members, and employees of the Capitol Police, $52,922,000, of which $25,673,000 is appropriated to the Sergeant at Arms of the House of Representatives, to be disbursed by the Clerk of the House, and $27,249,000 is appropriated to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate, the remainder, to be disbursed by the Architect of the Capitol. 52,922,000

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including purchasing and supplying uniforms; the purchase, maintenance, and repair of police motor vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training or other purposes, and expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $1,887,000, to be disbursed by the Architect of the Capitol: *Provided*, That the funds used to maintain the petty cash fund referred to as 1,887,000

"Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided further,* That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further,* That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1989 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department.

[*Total, Capitol Police Board, $54,809,000.*]

Official Mail Costs

For expenses necessary for official mail costs, $53,926,000, to be disbursed by the Clerk of the House, to be available immediately upon enactment of this Act: *Provided,* That funds appropriated for such purpose for the fiscal year ending September 30, 1988, shall remain available until expended. $53,926,000

Capitol Guide Service

For salaries and expenses of the Capitol Guide Service, $1,220,000, to be disbursed by the Secretary of the Senate: *Provided,* That none of these funds shall be used to employ more than thirty-three individuals: *Provided further,* That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service. 1,220,000

Statements of Appropriations

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the second session of the One Hundredth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $20,000, to be paid to the persons designated by the chairmen of such committees to supervise the work. 20,000

[*Total, joint items, $120,983,000.*]

OFFICE OF TECHNOLOGY ASSESSMENT

Salaries and Expenses

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including reception and representation expenses (not to exceed $3,500 from the Trust Fund), and rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under 42 U.S.C. 1395ww and 42 U.S.C. 1395w-1, $17,937,000: *Provided,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further,* That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92-484, except that funds shall be available for the assessment required by Public Law 96-151: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations 17,937,000

made under this Act, or be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study.

BIOMEDICAL ETHICS BOARD

SALARIES AND EXPENSES

For the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee, subject to reauthorization of section 381 of the Public Health Service Act (Public Law 99-158) or similar legislation, the amounts appropriated under this head in the Legislative Branch Appropriations Act, 1988 (as enacted by Public Law 100-202), shall remain available for obligation until September 30, 1989: *Provided,* That effective October 1, 1988, the Disbursing Officer of the Library of Congress is authorized to— [1] *($241,000) (reappropriation)*

(1) disburse funds appropriated for the Biomedical Ethics Board;

(2) compute and disburse the basic pay for all personnel of the Biomedical Ethics Board; and

(3) provide financial management services and support to the Biomedical Ethics Board,

in the same manner as provided with respect to the Office of Technology Assessment under section 101(c) of Public Law 97-51 (2 U.S.C. 142f).

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), $18,361,000: *Provided,* That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further,* That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63. 18,361,000

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; the Executive Assistant; and other personal services; at rates of pay provided by law, $6,532,000. 6,532,000

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $20,000. *20,000 (limitation on expenses)*

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $100,000, which shall remain available until expended. 100,000

[*Total, Office of the Architect of the Capitol, $6,632,000.*]

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[1] Extends the availability of funds only. Does not appropriate new amount.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; security installations, which are approved by the Capitol Police Board, authorized by House Concurrent Resolution 550, Ninety-second Congress, agreed to September 19, 1972, the cost limitation of which is hereby further increased by $445,000; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $15,471,000, of which $1,100,000 shall remain available until expended: *Provided,* That of the funds to remain available until expended, $500,000 shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended. $15,471,000

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant, $3,771,000, of which $160,000 shall remain available until expended. 3,771,000

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $24,086,000, of which $2,896,000 shall remain available until expended. 24,086,000

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House Office Buildings, including the position of Superintendent of Garages as authorized by law, $28,895,000, of which $4,453,000 shall remain available until expended: *Provided,* That upon enactment of this Act, the pay for the position of Superintendent of Garages shall be equivalent to the pay payable for positions at step 1 of level 12 of the House Employees Schedule, subject to the further increases authorized under 5 U.S.C. 5307(a)(1)(B) relating to the implementation of salary comparability policy. 28,895,000

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, and power (including the purchase of electrical energy) for the Capitol, Senate and House Office Buildings, Congressional Library Buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the

Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation; $24,785,000: *Provided,* That not to exceed $1,950,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1989: *Provided further,* That appropriations under this head shall hereafter be available for maintenance, alterations, personal and other services, and for all other necessary expenses of the Government owned property, buildings and facilities located in Lot 803, Square 695, formerly known as the General Services Administration Coal Yard at 42 I Street, S.E., in the District of Columbia. $24,785,000

[*Total, Capitol buildings and grounds, $97,008,000.*]

ADMINISTRATIVE PROVISIONS

SEC. 104. Notwithstanding any other provisions of law, the Architect of the Capitol is hereby authorized to (1) develop a pilot program to determine the economic feasibility and efficiency of centralizing certain maintenance functions, to assign and reassign, without increase or decrease in basic salary or wages, any person on the employment rolls of the Office of the Architect of the Capitol, for personal services in any buildings, facilities, or grounds under his jurisdiction for which appropriations have been made and are available; (2) maintain appropriate cost and productivity records for the program; and (3) report to appropriate authorities, including the Committees on Appropriations, on the results of the program, together with recommendations for continuation or expansion of the program.

SEC. 105. The Architect of the Capitol, under the direction of the Joint Committee on the Library, is authorized to accept donations to restore and display the Statue of Freedom model.

SEC. 106. The Architect of the Capitol shall give the highest priority to expediting the installation of an alarm system to alert individuals occupying the Longworth House Office Building, the Cannon House Office Building, the Russell Senate Office Building, the Dirksen Senate Office Building, and the Capitol, of a fire or other emergency. The installation of such alarm system shall be completed not later than October 1, 1989, and the Architect of the Capitol shall submit a report to the appropriate committees of the Congress concerning such installation on October 1, 1989

[*Total, Architect of the Capitol (except items in title II), $103,640,000.*]

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $44,684,000: *Provided,* That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further,* That, notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Con- 44,684,000

gress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and for printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $72,000,000: *Provided,* That funds remaining from the unexpended balances from obligations made under prior year appropriations for this account shall be available for the purposes of the printing and binding account for the same fiscal year: *Provided further,* That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further,* That, to the extent that funds remain from the unexpended balance of fiscal year 1984 funds obligated for the printing and binding costs of publications produced for the Bicentennial of the Congress, such remaining funds shall be available for the current year printing and binding cost of publications produced for the Bicentennial: *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years. $72,000,000

SUBTITLE B—JOHN C. STENNIS CENTER FOR PUBLIC SERVICE TRAINING AND DEVELOPMENT

SEC. 111. SHORT TITLE

This subtitle may be cited as the "John C. Stennis Center for Public Service Training and Development Act".

SEC. 112. CONGRESSIONAL FINDINGS

The Congress makes the following findings:

(1) Senator John C. Stennis of the State of Mississippi has served his State and country with distinction for more than 60 years as a public servant, including service in the United States Senate for a period of 41 years.

(2) Senator Stennis has a distinguished record as a United States Senator, including service as the first Chairman of the Select Committee on Ethics, Chairman of the Committee on Armed Services, Chairman of the Committee on Appropriations, and President pro tempore of the Senate.

(3) Senator Stennis has long maintained a special interest in and devotion to the development of leadership and excellence in public service.

(4) There is a compelling need to encourage outstanding young people to pursue public service on a career basis and to provide public service leadership training opportunities for individuals serving in State and local governments and for individuals serving as employees of Members of Congress.

(5) It would be a fitting tribute to Senator Stennis and to his leadership, integrity, and years of devoted public service to

establish in his name a center for the training and development of leadership and excellence in public service.

SEC. 113. DEFINITIONS

In this subtitle:

(1) The term "Center" means the John C. Stennis Center for Public Service Training and Development established under section 114(a).

(2) The term "Board" means the Board of Trustees of the John C. Stennis Center for Public Service Training and Development established under section 114(b).

(3) The term "fund" means the John C. Stennis Center for Public Service Training and Development Trust Fund provided for under section 116.

SEC. 114. ESTABLISHMENT OF THE JOHN C. STENNIS CENTER FOR PUBLIC SERVICE TRAINING AND DEVELOPMENT

(a) ESTABLISHMENT.—There is established in the legislative branch of the Government a center to be known as the "John C. Stennis Center for Public Service Training and Development".

(b) BOARD OF TRUSTEES.—The Center shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of seven members, as follows:

(1) Two members to be appointed by the majority leader of the Senate.

(2) One member to be appointed by the minority leader of the Senate.

(3) Two members to be appointed by the Speaker of the House of Representatives.

(4) One member to be appointed by the minority leader of the House of Representatives.

(5) The Executive Director of the Center, who shall serve as an ex officio member of the Board.

(c) TERM OF OFFICE.—The term of office of each member of the Board appointed under paragraphs (1), (2), (3), and (4) of subsection (b) shall be six years, except that—

(1) the members first appointed under paragraphs (1) and (2) shall serve, as designated by the majority leader of the Senate, one for a term of two years, one for a term of four years, and one for a term of six years;

(2) the members first appointed under paragraphs (3) and (4) shall serve, as designated by the Speaker of the House of Representatives, one for a term of two years, one for a term of four years, and one for a term of six years; and

(3) a member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) TRAVEL AND SUBSISTENCE PAY.—Members of the Board (other than the Executive Director) shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(e) LOCATION OF CENTER.—The Center shall be located at or near Starkville, Mississippi, the location of Mississippi State University.

SEC. 115. PURPOSES AND AUTHORITY OF THE CENTER

(a) PURPOSES OF CENTER.—The purposes of the Center shall be—

(1) to increase awareness of the importance of public service, to foster among the youth of the United States greater recognition and understanding of the role of public service in the development of the United States, and to promote public service as a career choice;

(2) to provide training and development opportunities for State and local elected government officials and employees of State and local governments in order to assist such officials and employees to become more effective and more efficient in performing their public duties and develop their potential for accepting increased public service opportunities; and

(3) to provide training and development opportunities for those employees of Members of the Congress who perform key roles in helping Members of Congress serve the people of the United States.

(b) AUTHORITY OF CENTER.—The Center is authorized, consistent with this subtitle, to develop such programs, activities, and services as it considers appropriate to carry out the purpose of this subtitle. Such authority shall include the following:

(1) The development and implementation of educational programs for secondary and post-secondary schools and colleges designed—

(A) to improve the attitude of students toward public service;

(B) to encourage students to consider public service as a career goal;

(C) to create a better understanding of the important role that people in public service have played in the growth and development of the United States; and

(D) to foster a sense of civic responsibility among the youth of the United States.

(2) The development and implementation of programs designed—

(A) to enhance skills and abilities of public service employees and elected officials at the State and local levels of government;

(B) to make such officials more productive and effective in the performance of their duties; and

(C) to help prepare such employees and officials to assume greater responsibilities in the field of public service.

(3) The development and implementation of congressional staff training programs designed to equip congressional staff personnel to perform their duties more effectively and efficiently.

(4) The development and implementation of media and telecommunications production capabilities to assist the Center in expanding the reach of its programs throughout the United States.

(5) The establishment of library and research facilities for the collection and compilation of research materials for use in carrying out the programs of the Center.

(c) PROGRAM PRIORITIES.—The Board of Trustees shall determine the priority of the programs to be carried out under this subtitle and the amount of funds to be allocated for such programs.

SEC. 116. JOHN C. STENNIS CENTER FOR PUBLIC SERVICE DEVELOPMENT TRUST FUND

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "John C. Stennis Center for Public Service Development Trust Fund". The fund shall consist of amounts appropriated to it pursuant to section 121 and amounts credited to it under subsection (d).

(b) INVESTMENT OF FUND ASSETS.—(1) It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the fund. Such investments may be made only in interest bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the marketplace.

(2) The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest bearing obligations of the United States then forming a part of the public debt, except that when such average rate is not a multiple of one-eighth of one percent, the rate of interest of such special obligations shall be the multiple of one-eighth of one percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) AUTHORITY TO SELL OBLIGATIONS.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) PROCEEDS FROM CERTAIN TRANSACTIONS CREDITED TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

SEC. 117. EXPENDITURES AND AUDIT OF TRUST FUND

(a) IN GENERAL.—The Secretary of the Treasury is authorized to pay to the Center from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Center to carry out the provisions of this subtitle.

(b) AUDIT BY GAO.—The activities of the Center under this subtitle may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Center, pertaining to such activities and necessary to facilitate the audit.

SEC. 118. EXECUTIVE DIRECTOR OF CENTER

(a) APPOINTMENT BY BOARD.—(1) There shall be an Executive Director of the Center who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Center and shall carry out the functions of the Center subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this subtitle as the Board shall prescribe.

(2) The Executive Director shall not be eligible to serve as Chairman of the Board.

(b) COMPENSATION.—The Executive Director of the Center shall be compensated at the rate specified for employees in grade GS–18 of the General Schedule under section 5332 of title 5, United States Code.

SEC. 119. ADMINISTRATIVE PROVISIONS

(a) IN GENERAL.—In order to carry out the provisions of this subtitle, the Center may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this subtitle, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS–15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS–18 under section 5332 of such title;

(3) prescribe such regulations as it considers necessary governing the manner in which its functions shall be carried out;

(4) solicit and receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Center, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this subtitle, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); and

(7) make other necessary expenditures.

(b) ANNUAL REPORT.—The Center shall submit to Congress an annual report of its operations under this subtitle.

SEC. 120. AUTHORIZATION FOR APPROPRIATIONS

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

SEC. 121. APPROPRIATIONS

There is appropriated to the fund the sum of $7,500,000 to carry out this subtitle. $7,500,000

This title may be cited as the "Congressional Operations Appropriations Act, 1989".

[Total, title I, Congressional Operations, [1] *$1,231,850,200.]*

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,521,000. 2,521,000

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, development and maintenance of the Union Catalogs; custody and custodial care of the Library Buildings; special clothing; cleaning,

[1] Includes $358,000 appropriated under title III, sec. 307A (p. 346). Excludes $3,600,000 carryover of funds appropriated in fiscal year 1988 extended to fiscal year 1989 (Administrative Provisions, sec. 11, p. 328). Excludes $241,000 carryover of funds appropriated in fiscal year 1988 extended to fiscal year 1989 (Biomedical Ethics Board, p. 333).

laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $153,042,000, of which not more than $5,000,000 shall be derived from collections credited to this appropriation during fiscal year 1989 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $5,000,000: *Provided further,* That, of the total amount appropriated, $5,784,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further,* That the balance remaining from the $11,500,000 appropriation in Public Law 98-396, dated August 22, 1984, shall be used to purchase equipment, supplies and services as needed to deacidify books and other materials from the collections of the Library of Congress.

[*Net total, salaries and expenses, $148,042,000.*]

$153,042,000
– 5,000,000
(receipts)

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $19,697,000, of which not more than $7,000,000 shall be derived from collections credited to this appropriation during fiscal year 1989 under 17 U.S.C. 708(c), and not more than $1,034,000 shall be derived from collections during fiscal year 1989 under 17 U.S.C. 111(d)(3) and 116(c)(1): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $8,034,000: *Provided further,* That $100,000 of the amount appropriated is available for the creation and maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies.

[*Net total, Copyright Office, $11,663,000.*]

19,697,000
– 8,034,000
(receipts)

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $36,474,000.

36,474,000

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $3,381,000, of which $1,000,000 shall be available until expended only for the purchase and supply of furniture, shelving, furnishings, and related costs necessary for the renovation and restoration of the Thomas Jefferson and John Adams Library Buildings.

3,381,000

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $128,790, of which $41,100 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15; and

(2) grants the manager or supervisor the right not to be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees.

[*Total, Library of Congress (except Congressional Research Service), $199,560,000*]

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $7,500,000, of which $500,000 shall remain available until expended. $7,500,000

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $633,000, of which $510,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807. 633,000
− 510,000 *(receipts)*

[*Net total, Copyright Royalty Tribunal, $123,000.*]

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For necessary expenses of the Office of Superintendent of Documents, including compensation of all employees in accordance with the provisions of 44 U.S.C. 305; travel expenses (not to exceed $117,000); price lists and bibliographies; repairs to buildings, elevators, and machinery; and supplying publications to the Depository Library and International Exchange Programs, $25,155,000, of which $11,424,000 representing excess receipts from the sale of publications shall be derived from the Government Printing Office 25,155,000
− 11,424,000 *(receipts)*

revolving fund: *Provided*, That $300,000 of this appropriation shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 1512), with the approval of the Public Printer, only to the extent necessary to provide for expenses (excluding permanent personal services) for workload increases not anticipated in the budget estimates and which cannot be provided for by normal budgetary adjustments.

[*Net total, Office of Superintendent of Documents, $13,731,000.*]

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided*, That not to exceed $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That during the current fiscal year the revolving fund shall be available for the hire of twelve passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18: *Provided further*, That the revolving fund shall be available to acquire needed land, located in Northwest D.C., which is adjacent to the present Government Printing Office, and is bounded by Massachusetts Avenue and the southern property line of the Government Printing Office, between North Capitol Street and First Street. The land to be purchased is identified as Parcels 45–D, 45–E, 45–F, and 47–A in Square 625, and includes the alleys adjacent to these parcels, and G Street, N.W. from North Capitol Street to First Street: *Provided further*, That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and Expenses" together may not be available for the full-time equivalent employment of more than 5,117 workyears: *Provided further*, That the revolving fund shall be available for expenses not to exceed $500,000 for the development of plans and design of a multi-purpose facility: *Provided further*, That notwithstanding the limitations of 5 U.S.C. 5901(a), as amended, the cost of uniforms furnished or allowances paid for uniforms to each uniformed special policeman appointed under the authority of 44 U.S.C. 317, shall not exceed $400 during the first year in which the employee is required to wear a prescribed uniform.

ADMINISTRATIVE PROVISIONS

SEC. 204. Funds authorized to be expended by the Government Printing Office for fiscal year 1989, not to exceed $282,000, shall be available without regard to the 25 per centum limitation of section 322 of the Economy Act of June 30, 1932, as amended, for the repair, alteration, and improvement of rented premises.

SEC. 205. Subject to the approval of the Joint Committee on Printing, and without regard to any other provision of law, the Public Printer is authorized to dispose of the parcel of land identified as Lot 884, Square 677, in Northeast D.C., in such manner and

on such terms and conditions as he determines to be in the best interests of the Government. The proceeds from this transaction shall be deposited and separately held in the Government Printing Office revolving fund pending authorization in an appropriation Act as to their disposition.

GENERAL ACCOUNTING OFFICE

Salaries and Expenses

For necessary expenses of the General Accounting Office, including not to exceed $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS–18; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $347,339,000: *Provided,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further,* That this appropriation shall be available to finance a portion, not to exceed $50,000, of the costs of the Governmental Accounting Standards Board: *Provided further,* That $100,000 of this appropriation shall be available for the expenses of planning the triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI) to be hosted by the United States General Accounting Office in Washington, D.C., in 1992, to the extent that such expenses cannot be met from the trust authorized below: *Provided further,* That the General Accounting Office is authorized to solicit and accept contributions (including contributions from INTOSAI), to be held in trust, which shall be available without fiscal year limitation for the planning, administration, and such other expenses as the Comptroller General deems necessary to act as the sponsor of the aforementioned tri-

$347,339,000

ennial Congress of INTOSAI. Monies in the trust not to exceed $10,000 shall be available upon the request of the Comptroller General to be expended for the purposes of the trust.

[*Total, title II, Other Agencies,* [1] *$572,774,000.*]

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided,* That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means, the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

SEC. 306. (a) Effective upon enactment of this Act, the Clerk of the House of Representatives is authorized to receive commissions for providing public telephone service in space occupied by the United States House of Representatives.

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[1] Includes $2,000,000 appropriated under title III, sec. 307D (p. 346, this volume).

(b) The Clerk is authorized to receive for deposit, amounts charged to any legislative branch entity, including but not limited to Legislative Service Organizations, the Congressional Budget Office and the Architect of the Capitol, for the provision of telephone or telecommunications services: *Provided,* That no amounts charged to the official expense allowances of Members of the House shall be deposited in accordance with this section.

(c) Receipts from the commissions and charges set forth in subsections (a) and (b) of this section shall be deposited in the United States Treasury for credit to the appropriation for "Salaries and Expenses of the United States House of Representatives", and shall be available for expenditure upon the approval of the Committee on Appropriations of the House of Representatives.

SEC. 307. Notwithstanding any other provision of this Act, including the joint item for the Capitol Police Board in the undesignated paragraph under the subheading "GENERAL EXPENSES", amounts for general expenses of the Capitol Police shall be disbursed by the Clerk of the House of Representatives.

SEC. 307A. For payment to Ruby M. Daniel, widow of Dan Daniel, late a Representative from the State of Virginia, $89,500. For payment to Marlene V. Howard, widow of James J. Howard, late a Representative from the State of New Jersey, $89,500. For payment to Geraldine M. Price, widow of Charles Melvin Price, late a Representative from the State of Illinois, $89,500. For payment to Lois S. Duncan, widow of John J. Duncan, late a Representative from the State of Tennessee, $89,500. [1] ($89,500) [1] ($89,500) [1] ($89,500) [1] ($89,500)

[Total, payments to widows and heirs of deceased Members of Congress, [1] $358,000.]

SEC. 307B. (a) Notwithstanding the applicable statutes described in subsection (b), an agency of the legislative branch to which those statutes apply is authorized to use telecommunications systems and services provided by the Architect of the Capitol or the House of Representatives or the Senate under the approved plan required by section 305 of Public Law 100-202 (101 Stat. 1329-308) if such systems and services—

(1) have been acquired competitively; and

(2) have been determined by the Architect of the Capitol to be at least equal in quality to, and not greater in cost than, the systems and services available under the procurement conducted by the Administrator of General Services known as "FTS2000".

(b) The applicable statutes described in this subsection are—

(1) section 111 of the Federal Property and Administrative Services Act of 1949; and

(2) section 627 of the Treasury, Postal Service and General Government Appropriations Act of 1989.

(c) As used in this section, the term "agency of the legislative branch" means the office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office.

SEC. 307C. There is established in the office of the Attending Physician one additional position of technical assistant to be appointed by the Attending Physician, subject to the approval of the Speaker of the House of Representatives.

SEC. 307D. For an additional amount for "Expenses, Presidential Transition, General Services Administration", not to exceed $2,000,000: *Provided,* That the availability of these funds shall be in accordance with sections 3(b) and 4 of the Presidential Transition Act of 1963, as amended (3 U.S.C. 102, note). [2] (2,000,000)

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[1] Reflected in the totals for title I, Congressional Operations (p. 330 and p. 340, this volume).
[2] Reflected in the totals for title II, Other Agencies (p. 345, this volume).

SEC. 307E. The Architect of the Capitol, subject to the direction of the Joint Committee on the Library, is authorized to—

(1) construct a National Garden demonstrating the diversity of plants, including the rose, our national flower, to be located between Maryland and Independence Avenues, S.W., and extending from the United States Botanic Garden Conservatory to Third Street, S.W., in the District of Columbia; and

(2) accept gifts, including money, plants, volunteer time, planning, construction and installation expenses, assistance and implements, and garden structures, on behalf of the United States Botanic Garden for the purpose of constructing the National Garden described in paragraph (1).

SEC. 308. The pay for the positions described in section 308(b) of the Legislative Branch Appropriations Act, 1988, as contained in section 101(i) of Public Law 100–202—

(1) shall be subject to any applicable adjustment during fiscal year 1989 under, or by reference to any applicable adjustment during fiscal year 1989 under, subchapter I of chapter 53 of title 5, United States Code; and

(2) with respect to the positions of Assistant Architect of the Capitol and Executive Assistant, shall be subject to any recommendation of the President that, pursuant to section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.), takes effect during fiscal year 1989.

SEC. 309. (a) None of the funds appropriated for fiscal year 1989 by this Act or any other law may be obligated or expended by any entity of the executive branch for the procurement from commercial sources of any printing related to the production of Government publications (including forms), unless such procurement is by or through the Government Printing Office.

(b) Subsection (a) does not apply to (1) individual printing orders costing not more than $1,000, if the work is not of a continuing or repetitive nature, (2) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or (3) printing from commercial sources that is specifically authorized by law or is of a kind that has not been routinely procured by or through the Government Printing Office.

(c) As used in this section, the term "printing" means the process of composition, platemaking, presswork, binding, and microform, and the end items of such processes.

SEC. 310. (a) The first sentence of section 309(a) of title 44, United States Code, is amended by striking ", except the Office of Superintendent of Documents," after "Government Printing Office" and inserting "(except for those programs of the Superintendent of Documents which are funded by specific appropriations),".

(b) Section 309(c) of such title is amended by striking the last two sentences and inserting "This budget program shall be considered and enacted as prescribed by section 9104 of title 31.".

(c) Section 309(d) of such title is amended to read as follows:

"(d) The Comptroller General shall audit the activities of the Government Printing Office at least once every 3 years and shall furnish reports of such audits to the Congress and the Public Printer. For these purposes the Comptroller General shall have such access to the records, files, personnel, and facilities of the Government Printing Office as he considers necessary.".

SEC. 311. None of the funds appropriated or otherwise made available by this Act shall be used by the Congressional Budget Office to add to, delete, or alter any information such Office has provided to any Member or committee of the House of Representatives or the Senate or any joint committee of the Congress, except to correct errors or to provide new or updated information.

SEC. 312. Section 202(i)(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)(1)) is amended by inserting immediately before the period the following: "or with respect to the administration of the affairs of the committee".

SEC. 313. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

This Act may be cited as the "Legislative Branch Appropriations Act, 1989".

Approved October 1, 1988.

LEGISLATIVE HISTORY—H.R. 4587

HOUSE REPORTS: No. 100-621 (Comm. on Appropriations) and No. 100-1000 (Comm. of Conference).
SENATE REPORT No. 100-382 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 12, reported in the House.
May 19, considered and passed House.
June 9, reported in the Senate.
June 14, considered and passed Senate, amended.
Sept. 28, conference report filed in the House.
Sept. 29, House agreed to conference report.
Sept. 30, Senate agreed to conference report.

Grand total:		
Title I, Congressional Operations	[1] $1,231,850,200	
Limitation on expenses	*(20,000)*	
Title II, Other Agencies	[2] 572,774,000	
Title III, General Provisions	[3] (2,358,000)	
Total, new budget (obligational) authority, Legislative Branch Appropriations Act, 1989		$1,804,624,200

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1989 contained in the foregoing annual appropriations act, the following additional amounts are available for the Legislative Branch for the fiscal year:

Permanent appropriations:		
Federal funds (pp. 2221-2222)	$136,992,000	
Trust funds (p. 2239)	7,540,000	
Appropriations in legislative acts:		
Capitol Preservation Fund, trust funds (P.L. 100-696) (p. 2353)	20,000,000	
Subtotal, additions		164,532,000
Deduct amounts transferred to General Government totals:		
General Government: General Services Administration (p. 346)	$2,000,000	
Subtotal, deductions		−2,000,000
Grand total, Legislative Branch		1,967,156,200

[1] Includes $358,000 appropriated under title III, sec. 307A (p. 346). Excludes $3,600,000 carryover of funds appropriated in fiscal year 1988 extended to fiscal year 1989 (Administrative Provisions, sec. 11, p. 328). Excludes $241,000 carryover of funds appropriated in fiscal year 1988 extended to fiscal year 1989 (Biomedical Ethics Board, p. 333).
[2] Includes $2,000,000 appropriated under title III, sec. 307D (p. 346).
[3] Amounts appropriated under title III are included in totals for title I and II (see footnote 1 and 2).

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1989

Public Law 100-447

100th Congress, H.R. 4586

September 28, 1988

AN ACT

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander in Chief, $927,292,000, to remain available until September 30, 1993: *Provided,* That of this amount, not to exceed $95,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor. $927,292,000

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,576,516,000, of which amount, $38,080,000 for the TACAMO mission shall not be available for obligation or expenditure before October 15, 1988, and, of the amount appropriated, funds allocated for homeporting at Everett, Washington may be obligated and expended for any homeporting military construction activity at that installation, except actual dredging and disposal of contaminated sediment, and that such funds may be expended for actual dredging and disposal of contaminated sediments once requirements of the Federal Water Pollution Control Act have been satisfied, to remain available until September 30, 1993: *Provided,* That of this amount, not to exceed $129,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by 1,576,516,000

law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

COAST GUARD SHORE FACILITIES

For construction, rebuilding and improvement of shore facilities of the United States Coast Guard, $50,300,000 to remain available until September 30, 1993. $50,300,000

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,225,926,000, to remain available until September 30, 1993: *Provided,* That of this amount, not to exceed $112,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor. 1,225,926,000

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $679,533,000, to remain available until September 30, 1993: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,* That of the amount appropriated, not to exceed $55,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 100-202, $19,548,000 is hereby rescinded. 679,533,000

−19,548,000
(rescission)

[*Total, military construction, Defense Agencies (net), $659,985,000.*]

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $492,000,000, to remain available until expended. 492,000,000

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $229,158,000, to remain available until September 30, 1993. $229,158,000

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction Acts, $158,508,000, to remain available until September 30, 1993. 158,508,000

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $85,958,000, to remain available until September 30, 1993. 85,958,000

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $60,900,000, to remain available until September 30, 1993. 60,900,000

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $70,600,000, to remain available until September 30, 1993. 70,600,000

[*Total, military construction:*
[*New budget (obligational) authority (net)*. *$5,537,143,000.*]
[*Appropriations* ..... *5,556,691,000.*]
[*Rescission* ..... *−19,548,000.*]

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $197,278,000; for Operation and maintenance, and for debt payment, $1,330,324,000; in all $1,527,602,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1993. 1,527,602,000
−371,000
(debt reduction)

[*Total, family housing, Army (net), $1,527,231,000.*]

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expan-

sion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $244,181,000; for Operation and maintenance, and for debt payment, $554,988,000; in all $799,169,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1993: *Provided further,* That of this amount, not to exceed $50,000 shall be available to liquidate obligations incurred for debt payment during fiscal year 1987.

$799,169,000
−128,000
(debt reduction)

[*Total, family housing, Navy and Marine Corps (net), $799,041,000.*]

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $175,685,000; for Operation and maintenance, and for debt payment, $735,266,000; in all $910,951,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1993.

910,951,000
−66,000
(debt reduction)

[*Total, family housing, Air Force (net), $910,885,000.*]

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $513,000; for Operation and maintenance, $20,187,000; in all $20,700,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1993.

20,700,000

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $2,000,000, to remain available until expended.

2,000,000

[*Total, family housing:*

[*New budget (obligational) authority (net)*	*$3,259,857,000.*]
[*Appropriations*	*3,260,422,000.*]
[*Portion applied to debt reduction*	*−565,000.*]

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 112. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 113. None of the funds in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 114. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 115. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid

of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per entum.

SEC. 116. The Secretary of Defense is to inform the Committees on Appropriations and Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 117. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1989, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 118. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 119. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the second session of the One Hundredth Congress.

SEC. 120. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1989, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1989 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

SEC. 121. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 122. Notwithstanding any other provision of law, the Secretary of the Air Force is required to maintain legislative liaison to the House and Senate Appropriations Subcommittees on Military Construction and budgetary and fiscal management of the Military Construction and Military Family Housing appropriations in a manner identical to the method employed as of September 30, 1986.

SEC. 123. None of the funds appropriated in this Act, except for North Atlantic Treaty Organization Infrastructure funds, may be used for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

SEC. 124. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds

available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 125. Notwithstanding any other provision of law, the Secretary of Defense shall include in the fiscal year 1990 program a legislative proposal to authorize the installment purchase of family housing units, and the budget request for fiscal year 1990 shall include such sums as necessary to implement a pilot program for not to exceed 3,000 units.

SEC. 126. Of the funds appropriated in this Act for Operations and maintenance of Family Housing, no more than $30,000,000 may be obligated for contract cleaning of family housing units.

SEC. 127. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

SEC. 128. None of the funds appropriated in this Act may be obligated or expended for the purpose of transferring any equipment, operation, or personnel from the Edgewood Arsenal, Maryland, to any other facility during fiscal year 1989.

SEC. 129. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

SEC. 130. None of the funds appropriated in this Act for the National Test Facility or any other components of the National Test Facility may be used to provide any operational battle management, command, control or communications capabilities for an early deployment of a ballistic missile defense system: *Provided*, That the goal of the National Test Bed should be to simulate, evaluate, and demonstrate architecture and technologies that are technically feasible, cost-effective at the margin, and survivable.

SEC. 131. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Approved September 28, 1988.

LEGISLATIVE HISTORY—H.R. 4586

HOUSE REPORTS: No. 100-620 (Comm. on Appropriations) and No. 100-912 (Comm. of Conference).
SENATE REPORT No. 100-380 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 12, reported in the House.
May 18, considered and passed House.
June 9, reported in the Senate.
June 15, considered and passed Senate, amended.
Sept. 9, conference report filed in the House.
Sept. 14, House agreed to conference report; receded and concurred in Senate amendment, in others with amendments, and insisted on disagreement to another. Senate agreed to conference report; agreed to House amendments and receded from another.

Grand total:		
Department of the Army:		
Definite appropriations	$2,770,010,000	
Portion applied to debt reduction	−371,000	$2,769,639,000
Department of the Navy:		
Definite appropriations	2,486,885,000	
Portion applied to debt reduction	−128,000	2,486,757,000
Department of the Air Force:		
Definite appropriations	2,365,985,000	
Portion applied to debt reduction	−66,000	2,365,919,000
Department of Defense:		
Definite appropriations	1,194,233,000	
Rescission	−19,548,000	1,174,685,000
Total, new budget (obligational) authority, Military Construction Appropriations Act, 1989 (net)		8,797,000,000

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Public Law 100–460

100th Congress, H.R. 4784

October 1, 1988

AN ACT

Making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes; namely:

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including the direct supervision of the Soil Conservation Service and the Forest Service, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $1,762,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary. $1,762,000

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $363,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Deputy Secretary. 363,000

OFFICE OF THE ASSISTANT TO THE SECRETARY FOR SPECIAL SERVICES

For necessary salaries and expenses to continue the Office of the Assistant to the Secretary for purposes of providing special services to the Department, $150,000: *Provided,* That none of these funds shall be available for the supervision or management of Natural Resources and Environmental activities, the Soil Conservation Service, or the Forest Service, or any other activities or functions associated therewith. 150,000

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $467,000. $467,000

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Department of Agriculture which are included in this Act, $50,659,000, of which $3,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: *Provided*, That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account. 50,659,000

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $21,297,000. 21,297,000

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,494,000: *Provided*, That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees. 1,494,000

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, except for expenses of the Commodity Credit Corporation, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $5,000,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands. 5,000,000

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Budget and Program Analysis, $4,389,000; for Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $21,271,000 and in addition, for payment of the USDA share of the National Communications System, $262,000; making a total of $25,922,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general 25,922,000

administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

WORKING CAPITAL FUND

An amount of $4,708,000 is hereby appropriated to the Departmental Working Capital Fund to increase the Government's equity in this fund and to provide for the purchase of automated data processing, data communication, and other related equipment necessary for the provision of Departmental centralized services to the agencies. $4,708,000

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental and Public Affairs to carry out the programs funded in this Act, $408,000. 408,000

PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $7,883,000 including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000, may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225). 7,883,000

CONGRESSIONAL RELATIONS

For necessary expenses for liaison with the Congress on legislative matters, $497,000. 497,000

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $479.000. 479,000

[*Total, Office of Governmental and Public Affairs, $8,859,000.*]

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $50,491,000 including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95– 50,491,000

452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $20,836,000. $20,836,000

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $447,000. 447,000

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $49,336,000; of which $500,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided*, That this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further*, That this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis. 49,336,000

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, $63,588,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109. 63,588,000

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural

and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,820,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225). $1,820,000

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $432,000. 432,000

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $561,581,000: *Provided,* That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further,* That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Agricultural Research Service shall not be in excess of $400 annually: *Provided further,* That appropriations hereunder shall be available to conduct marketing research: *Provided further,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $175,000, except for headhouses connecting greenhouses which shall each be limited to $500,000, and except for ten buildings to be constructed or improved at a cost not to exceed $300,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $175,000 whichever is greater: *Provided further,* That the limitations on alterations contained in this Act shall not apply to a total of $300,000 for facilities at Beltsville, Maryland: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That the foregoing limitations on purchase of land shall not apply to the purchase of land at the Grand Forks Human Nutrition Center, Grand Forks, North Dakota: *Provided further,* That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives. 561,581,000

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $1,800,000. 1,800,000

BUILDINGS AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $28,350,000: *Provided,* That these funds may be transferred to such other accounts in this Act as may be appropriate to carry out these purposes: *Provided further,* That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities: *Provided further,* That funds recovered in satisfaction of judgment at the Plum Island Animal Disease Center shall be available and augment funds appropriated in a prior fiscal year for construction at Plum Island Animal Disease Center and be used for construction necessary to consolidate research and operations at the Center and for renovation of the Beltsville Agricultural Research Center. $28,350,000

[*Total, Agricultural Research Service, $591,731,000.*]

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $155,545,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a-361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $17,500,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a—582a-7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $24,333,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $41,886,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $39,716,000 for competitive research grants, including administrative expenses; $5,476,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $1,025,000 for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); $3,668,000 for grants for research and construction of facilities to conduct research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178); and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended;

$4,754,000 for higher education grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,750,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; $3,000,000 for a groundwater quality program; $3,152,000 for grants to States for the establishment and operation of international trade development centers, as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292); $4,450,000 for low-input agriculture as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 4701-4710); and $6,377,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; in all, $315,107,000. $315,107,000

EXTENSION SERVICE

(INCLUDING TRANSFERS OF FUNDS)

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $241,594,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,635,000; payments for the urban gardening program under section 3(d) of the Act, $3,500,000; payments for the pest management program under section 3(d) of the Act, $7,164,000; payments for the farm safety program under section 3(d) of the Act, $970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $1,633,000; grants to upgrade 1890 land-grant college extension facilities as authorized by section 1416 of Public Law 99-198, $9,508,000, to remain available until expended; payments for an integrated reproductive management program under section 3(d) of the Act, $47,000; payments for the rural development centers under section 3(d) of the Act, $950,000; payments for extension work under section 209(c) of Public Law 93-471, $953,000; payments for a groundwater quality program under section 3(d) of the Act, $1,500,000; payments for a financial management assistance program under section 3(d) of the Act, $1,427,000; for special grants for financially stressed farmers and dislocated farmers as authorized by Public Law 100-219, $3,350,000; payments for carrying out the provisions of the Renewable Resource Extension Act of 1978 under 3(d) of the Act, $2,765,000; and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $18,291,000; in all, $352,287,000, of which not less than $79,400,000 is for Home Economics: *Provided,* That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year. 352,287,000

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $9,083,000, of which not less than $2,300,000 is for Home Economics. $9,083,000

[*Total, Extension Service, $361,370,000.*]

National Agricultural Library

For necessary expenses of the National Agricultural Library, $13,268,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $775,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements: *Provided further,* That $370,000 shall be available for a grant pursuant to section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318). [1] 14,268,000

Office of the Assistant Secretary for Marketing and Inspection Services

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $421,000. 421,000

Animal and Plant Health Inspection Service

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b); and to protect the environment, as authorized by law, $331,207,000; of which $4,500,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided,* That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available 331,207,000

[1] Enrolled erroneously as $13,268,000 and corrected in P.L. 101-45, Title III, Technical Corrections, sec. 304.

for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Animal and Plant Health Inspection Service shall not be in excess of $400 annually: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $2,546,000. $2,546,000

[*Total, Animal and Plant Health Inspection Service, $333,753,000.*]

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $404,954,000: *Provided,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building. 404,954,000

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $8,115,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act. 8,115,000

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $36,856,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services. *$36,856,000 (limitation on administrative expenses)*

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,655,000; of which $99,000 shall be available for a field office in Hawaii: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109. 4,655,000

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, $33,373,000; of which not less than $1,591,000, shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building. 33,373,000

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $34,000,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses. *34,000,000 (limitation on administrative expenses)*

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $7,811,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961. *7,811,000 (by transfer)*

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $942,000. $942,000

OFFICE OF TRANSPORTATION

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,397,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building. 2,397,000

[*Total, Agricultural Marketing Service, $36,712,000.*]

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $9,562,000. 9,562,000

[*Total, Production, Processing and Marketing, $2,388,687,000.*]

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $413,000. 413,000

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301–1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301–1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595);

sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241-273); and laws pertaining to the Commodity Credit Corporation, not to exceed $580,000,000, to be derived by transfer from the Commodity Credit Corporation fund: *Provided,* That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further,* That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations. *$580,000,000 (by transfer)*

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $5,000: *Provided,* That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further,* That this amount shall be transferred to the Commodity Credit Corporation: *Provided further,* That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursement. 5,000

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $201,992,000: *Provided,* That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i). $201,992,000

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $112,000,000. 112,000,000

[*Total, Federal Crop Insurance Corporation, $313,992,000.*]

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1989, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained or anticipated, but not previously reimbursed, but not to exceed $8,828,286,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a-11). 8,828,286,000

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198). *5,000,000,000 (loan authorization)*

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198). *500,000,000 (loan authorization)*

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $7,200,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager, of which up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and *7,200,000 (by transfer)*

shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

[*Total Corporations:*
[*New budget (obligational) authority* ..... *$9,142,278,000.*]
[*By transfer* ..... *7,200,000.*]
[*Loan authorization* ..... *5,500,000,000.*]
[*Total, title I, Agricultural Programs:*
[*New budget (obligational) authority* ..... *11,531,383,000.*]
[*By transfer* ..... *595,011,000.*]
[*Loan authorization* ..... *5,500,000,000.*]
[*Limitation on administrative expenses* ..... *70,856,000.*]

TITLE II—RURAL DEVELOPMENT PROGRAMS

Rural Development Assistance

Office of the Under Secretary for Small Community and Rural Development

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $418,000. $418,000

Farmers Home Administration

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $1,844,990,000, of which not less than $1,794,420,000 shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales, and for loans to finance sales or transfers to nonprofit organizations or public agencies of not more than 5,000 rental units related to prepayment; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718). *1,844,990,000 (loan authorization)* *10,000,000 (limitation on obligations)*

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $275,310,000, to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided,* That of this amount not to exceed $109,918,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not less than $5,082,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further,* That $160,310,000 is available for expiring agreements and for servicing of existing units without agreements: *Provided further,* That agreements entered into or renewed during fiscal year 1989 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further,* That agreements entered into or renewed during fiscal years 1985, 1986, 1987, and 1988, may also be extended beyond five years to fully utilize amounts obligated. *275,310,000 (limitation on obligations)*

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e),

and 1490a(c)), including $1,381,000 as authorized by section 521(c) of the Act, also including not to exceed $15,000,000 for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act; $3,660,061,000. For an additional amount as authorized by section 521(c) of the Act such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended. $3,660,061,000

[*Total, Rural Housing Insurance Fund:*
[*New budget (obligational) authority* ..... *$3,660,061,000.*]
[*Loan authorization* ..... *1,844,990,000.*]
[*Limitation on obligations* ..... *285,310,000.*]

CITY OF LINCOLN

Hereafter, the area within the present city limits of the city of Lincoln, Burleigh County, State of North Dakota, and the southeast quarter (SE¼) of section eighteen (18), township one hundred thirty-eight (138) north, range seventy-nine (79) west, Burleigh County, North Dakota, shall continue to be eligible for loans and payments administered by the Farmers Home Administration through the Rural Housing Insurance Fund.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund. *500,000 (loan authorization)*

AGRICULTURAL CREDIT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $569,000,000, of which $474,000,000 shall be guaranteed loans; $14,000,000 for water development, use, and conservation loans, of which $3,000,000 shall be guaranteed loans; operating loans, $3,200,000,000, of which $2,300,000,000 shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; for emergency insured and guaranteed loans, $600,000,000 to meet the needs resulting from natural disasters; and for matching grants authorized by section 502(b) of the Agricultural Credit Act of 1987 (7 U.S.C. 5101-5106), $3,000,000. [1] *569,000,000* [1] *14,000,000* [1] *3,200,000,000* [1] *2,000,000* [1] *600,000,000*

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $3,467,596,000. *3,000,000 (by transfer)* 3,467,596,000

[*Total, Agricultural Credit Insurance Fund:*
[*New budget (obligational) authority* ..... *$3,467,596,000.*]
[*By transfer* ..... *3,000,000.*]
[*Loan authorization* ..... [2] *4,394,156,000.*]

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661-664, to be available from funds in the Rural Development Insurance Fund, as follows: insured water and sewer facility loans, $330,380,000; guaranteed industrial development loans, $95,700,000; and insured community facility loans, $95,700,000. [1] *330,380,000* [1] *95,700,000* [1] *95,700,000*

[1] (Loan authorization).
[2] Includes $9,156,000 loan authorizations in Soil Conservation Service (p. 377) made through ACIF.

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $1,607,047,000. $1,607,047,000

[*Total, Rural Development Insurance Fund:*
[*New budget (obligational) authority* ..... *$1,607,047,000.*]
[*Loan authorization* ..... *521,780,000.*]

RURAL DEVELOPMENT LOAN FUND

For direct loans to intermediary borrowers, $14,000,000, as authorized under the Rural Development Loan Fund (42 U.S.C. 9812(a)), to be available from funds in the Rural Development Loan Fund, $3,000,000 and from funds transferred from the Rural Development Insurance Fund, $11,000,000. *14,000,000 (loan authorization)*

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $109,395,000, to remain available until expended, pursuant to section 306(d) of the above Act. 109,395,000

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000, to remain available until expended. 12,500,000

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $9,513,000, to remain available until expended. 9,513,000

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,000,000. 8,000,000

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,091,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments. 3,091,000

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $500,000, to remain available until expended. 500,000

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $19,140,000. 19,140,000

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310(B)(c) (7 U.S.C. 1932) to any qualified public or private nonprofit organization, $6,500,000: *Provided,* That $500,000 shall be available for grants to qualified nonprofit organizations to provide technical assistance for rural communities needing improved passenger transportation systems or facilities in order to promote economic development. $6,500,000

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: *Provided,* That no other funds in this Act shall be available for this Office. 600,000

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, $414,734,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(a) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided,* That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further,* That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $2,868,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That notwithstanding any other provision of law, $2,000,000 of this appropriation shall be available solely to carry out H.R. 5378 and S. 2836, the Lower Mississippi Delta Development Act, as introduced in the House of Representatives on September 26, 1988, and in the Senate on September 27, 1988, and the provisions of such bills are hereby incorporated by reference and made a part of this Act: *Provided further,* That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrowers, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred

414,734,000
3,000,000
(by transfer)

1,000,000
(by transfer)

under this section to bear no interest during or after such period: *Provided,* That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

[*Total, Farmers Home Administration:*
[*New budget (obligation) authority* ..... *$9,318,677,000.*]
[*By transfer* ..... *7,000,000.*]
[*Loan authorization* ..... [1] *6,775,426,000.*]
[*Limitation on obligations* ..... *285,310,000.*]

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1989 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1989, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further,* That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

$622,050,000 (loan authorization)
239,250,000 (loan authorization)
933,075,000 (loan authorization)

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), $341,000,000. 341,000,000

[*Total, Rural Electrification and Telephone Revolving Fund:*
[*New budget (obligational) authority* ..... *$341,000,000.*]
[*Loan authorization* ..... *1,794,375,000.*]

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901–950(b)). 28,710,000

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1989 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000. *177,045,000 (limitation on obligations)*

[1] Includes $9,156,000 loan authorizations in Soil Conservation Service (p. 377) made through ACIF.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,447,000 — $1,447,000

RURAL ECONOMIC DEVELOPMENT SUBACCOUNT

For grants and loans authorized under section 313 of the Rural Electrification Act for the purpose of promoting rural economic development and job creation projects, $540,000: *Provided*, That this amount will be in addition to any amounts generated by the interest differential on voluntary cushion of credit payments made by REA borrowers. — 540,000

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $160,000: *Provided*, That no other funds in this Act shall be available for this Office. — 160,000

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–1995), and for which commitments were made prior to fiscal year 1989, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $31,124,000: *Provided*, That none of the funds in this Act may be used to authorize the transfer of funds to this account from the Rural Telephone Bank. — 31,124,000

[Total, Rural Electrification Administration:
[New budget (obligational) authority ..... $402,981,000.]
[Loan authorization ..... 1,794,375,000.]
[Limitation on obligations ..... 177,045,000.]
[Total, Rural Development Assistance:
[New budget (obligational) authority ..... 9,722,076,000.]
[By transfer ..... 7,000,000.]
[Loan authorization ..... 8,569,801,000.]
[Limitation on obligations ..... 462,355,000.]

CONSERVATION

OFFICE OF THE ASSISTANT TO THE SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant to the Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $266,000: *Provided*, That the position of the Assistant to the Secretary for Natural Resources and Environment, for maximum results, should be filled by an experienced employee of the Soil Conservation Service or the Forest Service. — 266,000

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $403,262,000, of which not less than $5,494,000 is for snow survey and water forecasting and not less than $5,043,000 is for operation and establishment of the plant materials centers: *Provided,* That of the foregoing amounts not less than $310,000,000 is for personnel compensation and benefits: *Provided further,* That the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2): *Provided further,* That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas, into a single national technical center. $403,262,000

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006–1009), $12,051,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109. 12,051,000

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood

Prevention Act, as amended (16 U.S.C. 1001–1008), $8,651,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109. $8,651,000

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $172,373,000 (of which $26,271,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $10,000,000 shall be available for emergency measures as provided by sections 403–405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203–2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That $7,949,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction. 172,373,000 [1] *(7,949,000) (loan authorization)*

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010–1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $25,120,000: *Provided,* That $1,207,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109. 25,120,000 [1] *(1,207,000) (loan authorization)*

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,474,000, to remain available until expended (16 U.S.C. 590p(b)(7)). 20,474,000

[*Total, Soil Conservation Service, $641,931,000.*]

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[1] Loans are made through the Agricultural Credit Insurance Fund, Farmers Home Administration. Amounts included in loan authorization totals for ACIF (p. 371) and Farmers Home Administration (p. 374).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q), and sections 1001–1004, 1006–1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501–1504, 1506–1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $176,935,000, to remain available until expended (16 U.S.C. 590o) for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided*, That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further*, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further*, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further*, That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further*, That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have

$176,935,000

violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $12,446,000, to remain available until expended, as authorized by that Act. $12,446,000

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311), $9,000,000, to remain available until expended. 9,000,000

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $5,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204. 5,000,000

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out the purposes of section 202 of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $5,452,000, for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county committees, approved by the State committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided*, That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further*, That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies. 5,452,000

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the conservation reserve program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831-3845), $1,864,000,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices, for annual rental payments, and for technical assistance: *Provided*, That 4 per centum of the funds available for the conservation 1,864,000,000

reserve program in this Act, but not to exceed $61,461,000, shall be available for payment to technicians of the Soil Conservation Service for services in carrying out the conservation programs of the Food Security Act of 1985: *Provided further,* That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land: *Provided further,* That not to exceed $385,000,000 of the funds in this Act, or otherwise made available by this Act, shall be available to provide cost share assistance on crop year 1989 acreage during fiscal year 1989; for the purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119, September 29, 1987), to the extent that this proviso has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, such transfer is a necessary (but secondary) result of a significant policy change.

[Total, Agricultural Stabilization and Conservation Service, $2,072,833,000.]

[Total, Conservation, $2,715,030,000.]

[Total, title II, Rural Development Programs:

[New budget (obligational) authority	*$12,437,106,000.]*
[By transfer	*7,000,000.]*
[Loan authorization	*8,569,801,000.]*
[Limitation on obligations	*462,355,000.]*

TITLE III—DOMESTIC FOOD PROGRAMS

Office of the Assistant Secretary for Food and Consumer Services

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $406,000. $406,000

Food and Nutrition Service

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1769b), and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1788-1789); $4,590,816,000, to remain available through September 30, 1990, of which $497,544,000 is hereby appropriated and $4,093,272,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further,* That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an

497,544,000
4,093,272,000
(by transfer)

acceptable manner some or all of the funds withheld may be allocated: *Provided further,* That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary: *Provided further,* That up to $5,200,000 shall be available to develop a system for independent verification of school food service claims.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $19,925,000, to remain available through September 30, 1990. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary. $19,925,000

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $1,929,362,000, to remain available through September 30, 1990, of which $2,000,000 may be used to carry out the farmers' market coupon demonstration project. 1,929,362,000

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $50,000,000: *Provided,* That funds provided herein shall remain available through September 30, 1990: *Provided further,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program. 50,000,000

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2028, 2029), $13,598,955,000: *Provided,* That funds provided herein shall remain available through September 30, 1989, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: 13,598,955,000

Provided further, That this appropriation shall be subject to any work registration or work fare requirements as may be required by law: *Provided further,* That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: *Provided further,* That $10,000,000 of the funds provided herein shall be available for the purchase of equipment to improve the processing of food coupons: *Provided further,* That $908,250,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $199,147,000. $199,147,000

For necessary expenses to carry out section 110 of the Hunger Prevention Act of 1988 (S. 2560), $40,000,000. 40,000,000

[*Total, Food donations programs, $239,147,000.*]

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided,* That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities. 50,000,000

For purchases of commodities to carry out the Temporary Emergency Food Assistance Act of 1983, as amended by section 104 of the Hunger Prevention Act of 1988, $120,000,000. 120,000,000

[*Total, Temporary emergency food assistance program, $170,000,000.*]

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, $89,223,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109. 89,223,000

[*Total, Food and Nutrition Service, $16,594,156,000.*]

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $8,823,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225). 8,823,000

[*Total, title III, Domestic Food Programs:*

[*New budget (obligational) authority* ..... *$16,603,385,000.*]

[*By transfer* ..... *4,093,272,000.*]

TITLE IV—INTERNATIONAL PROGRAMS

Foreign Agricultural Service

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $95,017,000: *Provided*, That this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis. $95,017,000

Agricultural Trade Missions

For necessary expenses for agricultural aid and trade missions as authorized by Public Law 100-202, $400,000. 400,000

Public Law 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $851,900,000, of which $468,100,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales, carryover balances and commodities made available from the inventories of the Commodity Credit Corporation by the Secretary of Agriculture pursuant to sections 102 and 403(b) of said Act, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $630,000,000, of which $630,000,000 is hereby appropriated: *Provided*, That not to exceed 10 per centum of the funds made available to carry out any title to this paragraph may be used to carry out any other title of this paragraph. 468,100,000 630,000,000

[*Total, Public Law 480, $1,098,100,000.*]

Office of International Cooperation and Development

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $5,319,000: *Provided*, That not to exceed $3,000 of this amount shall be available for official reception and representation expenses as authorized by 7 U.S.C. 1766: *Provided further*, That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other 5,319,000

associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581–3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further,* That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1), (3)), $1,000,000: *Provided,* That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further,* That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109. $1,000,000

[*Total, title IV, International Programs, $1,199,836,000.*]

TITLE V—RELATED AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $481,844,000: *Provided,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further,* That this appropriation shall be available to employ persons or organizations, on a temporary basis, by contract or otherwise without regard to chapter 51 and subchapter III of chapter 53, and section 2105(a) of chapter 21 of title 5, United States Code. 481,844,000

For purposes of establishing and implementing a demonstration project that authorizes the Secretary to use the facilities of any public or private cooperative, with the permission of any such cooperative, up to $3,000,000 may be made available.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the

Food and Drug Administration, where not otherwise provided, $23,950,000. $23,950,000

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $25,612,000: *Provided*, That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account. 25,612,000

[*Total, Food and Drug Administration, $531,406,000.*]

DEPARTMENT OF THE TREASURY

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued in fiscal years 1988 and 1989, as authorized, $175,000,000: *Provided*, That not to exceed $2,000,000 of the assistance fund shall be available for administrative expenses of the Farm Credit System Assistance Board: *Provided further*, That officers and employees of the Farm Credit System Assistance Board shall be hired, promoted, compensated, and discharged in accordance with title 5, United States Code. 175,000,000
2,000,000 (limitation on administrative expenses)

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $34,723,000, including not to exceed $700 for official reception and representation expenses. 34,723,000

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $35,000,000 (from assessments collected from farm credit system banks and the Federal Agricultural Mortgage Corporation), of which not to exceed $1,500 shall be available for official reception and representation expenses, shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249. *35,000,000 (limitation on administrative expenses)*

[*Total, title V, Related Agencies:*
[*New budget (obligational) authority ..... $741,129,000.*]
[*Limitation on administrative expenses..... 37,000,000.*]

TITLE VI—GENERAL PROVISIONS

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1989 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 694 passenger motor vehicles, of which 689 shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefore as authorized by law (5 U.S.C. 5901-5902).

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946 and July 28, 1954, and (7 U.S.C. 427, 1621-1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided,* That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, $4,500,000 for the contingency fund to meet emergency conditions, and buildings and facilities; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Agricultural Research Service, buildings and facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $5,000,000 for the grasshopper and Mormon cricket control program, Animal and Plant Health Inspection Service; $2,852,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95-113, as amended (7 U.S.C 3152(a)(3)(B)); and buildings and facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 620. During fiscal year 1989, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the na-

tional interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1988 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

SEC. 622. In fiscal year 1989, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 624. None of the funds appropriated by this Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Food and Drug Administration, 7,350; Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided*, That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further*, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further*, That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 631. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 632. Hereafter, none of the funds appropriated in this or any other Act shall be used to alter the method of computing normalized prices for agricultural commodities for use by any Federal agency in evaluating water resources development projects to be undertaken in whole or in part with Federal funds that was in effect as of January 1, 1986.

SEC. 633. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund. Also, none of the funds in this Act, or otherwise made available by this Act, shall be used to sell or offer for borrower prepayment more loans from the Rural Development Insurance Fund than needed to realize net proceeds of $584,000,000, the total level authorized by the Omnibus Reconciliation Act of 1986, Public Law 99-509, and the Continuing Appropriations Act of 1987, Public Law 99-591. Further, Rural Development Insurance Fund loans offered for sale in fiscal year 1989 shall be first offered to the borrowers for prepayment. Borrowers who rejected prepayment offers in fiscal year 1988 shall remain eligible for prepayment in fiscal year 1989.

SEC. 634. (a) Effective beginning with the 1989 crop year for honey, section 405 of the Agricultural Act of 1949 (7 U.S.C. 1425) is amended, in the text of subsection (a) (as so designated by section 1004(1) of the Food Security Act of 1985 effective for the 1986 through 1990 crops), by striking out "No producer" and inserting in lieu thereof "Except as otherwise provided in section 405A, no producer".

(b) The Agricultural Act of 1949 is amended by inserting after section 405 the following new section:

"SEC. 405A. (a) A producer of honey may satisfy the producer's obligation to repay a loan, or a portion of a loan, made to the producer under section 201(b) of this Act by forfeiting the collateral for the loan, or portion of the loan, only if the value of the collateral forfeited, when taken together with the value of the collateral forfeited on any other loan or loans of the producer for such crop of honey under section 201(b), does not exceed $250,000: *Provided, however,* That the loan forfeiture limitation provided by this section shall not be applicable for any crop year for which the Secretary does not permit producers of honey to repay the price support loans at a level determined under section 201(b)(2)(B).

"(b) The producer of honey shall be personally liable for the repayment of a loan or loans made to the producer under the program for the crop of honey involved, with respect to that portion of the loan or loans for which satisfaction of the loan by forfeiture, as provided in subsection (a), is prohibited.

"(c) The loan contracts of the Commodity Credit Corporation entered into with producers of honey shall clearly indicate the extent to which a producer of honey may be personally liable for repayment of a loan under this section.

"(d) The Commodity Credit Corporation may issue such regulations as the Corporation deems necessary to carry out this section.".

SEC. 635. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a targeted export assistance program under section 1124 of the Food Security Act of 1985 if the aggregate amount of funds and/or commodities under such program exceeds $200,000,000: *Provided,* That $30,000,000 shall be held in reserve to be released by the Secretary of Agriculture only if required.

SEC. 636. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out an export enhancement program (estimated to be $900,000,000 in the President's fiscal year 1989 Budget Request) if the aggregate amount of funds and/or commodities under such programs exceeds $770,000,000.

SEC. 637. No later than 30 days after enactment of this Act, funds provided in this Act shall be used to implement section 633 of the "Rural Development, Agriculture and Related Agencies Appropriations Act, 1988", and, within the authorities provided in such section, shall allocate $150,000,000 in prepayments to telephone program borrowers and $350,000,000 in prepayments to electric program borrowers.

SEC. 638. None of the funds in this Act, or otherwise made available by this Act, shall be used to regulate the order or sequence of advances of funds to a borrower under any combination of approved telephone loans from the Rural Electrification Administration, the Rural Telephone Bank or the Federal Financing Bank.

SEC. 639. In fiscal years 1989 and 1990, $20,000,000 of section 32 funds shall be used to purchase sunflower and cottonseed oil, as authorized by law, such purchases to facilitate additional sales of such oils in world markets at competitive prices, so as to compete with other countries: *Provided*, That these funds shall be in addition to funds made available for this purpose by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988 (Public Law 100-202).

SEC. 640. Within 30 days of the enactment of this section the Secretary of Agriculture may establish and operate a program for fiscal year 1989 as follows:

(a) The Secretary shall make available to sugar refiners, operators and processors commodities acquired by the Commodity Credit Corporation at such levels as the Secretary determines necessary to permit such refiners, operators or processors to purchase in the amounts specified below raw sugar grown in the Republic of the Philippines and countries designated as beneficiary countries pursuant to section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) at prices equivalent to the market price for raw cane sugar in the United States on the condition that an equivalent amount of sugar refined in the United States is exported to world markets within 60 days. The Secretary shall make such commodities available on the basis of competitive bids and shall have discretion to accept or reject bids under such criteria as the Secretary determines appropriate. Generic certificates shall be issued in lieu of commodities acquired by the Commodity Credit Corporation under the program established under this section.

(b) The Secretary shall make available sufficient commodities to permit the importation of no less than 290,000 short tons of sugar, raw value, from the beneficiary countries specified in subsection (a), and no less than 110,000 short tons of sugar, raw value, from the Republic of the Philippines. Sugar imported under the program authorized under this section shall be in addition to any sugar quota level established for the countries specified in subsection (a) pursuant to headnote 3 of schedule 1, part 10, subpart A of the Tariff Schedules of the United States (9 U.S.C. 1202).

(c) In order to maximize the number of competing bidders, the Secretary shall, in determining the low bidders in the program established under this section, make appropriate adjustments in bids received from sugar refiners, operators and processors to reflect differing transportation costs based on refinery and factory location.

(d) The program authorized under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

(e) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(f) Nothing in this section shall be deemed to increase the appropriation for any program administered by the United States Department of Agriculture.

(g) The Secretary may provide such other terms and conditions as the Secretary determines appropriate to carry out this section.

SEC. 641. (a) Section 17(p) of the National School Lunch Act (42 U.S.C. 1766(p)) is amended by adding at the end thereof the following new paragraph:

"(4) For the purpose of establishing eligibility for free or reduced-price meals or supplements under this subsection, income shall include only the income of an eligible person and, if any, the spouse and dependents with whom the eligible person resides.".

(b) Section 17(p) of such Act (as amended by subsection (a) of this section) is amended by adding at the end thereof the following new paragraph:

"(5) A person described in paragraph (1) shall be considered automatically eligible for free meals or supplements under this subsection, without further application or eligibility determination, if the person is—

"(A) a member of a household receiving assistance under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(B) a recipient of assistance under title XVI or XIX of the Social Security Act (42 U.S.C. 1381 et seq.).".

(c) Subparagraph (A) of section 17(p)(3) of such Act is amended to read as follows:

"(A) The Secretary, in consulation with the Commissioner of Aging, shall establish, within 6 months of enactment, separate guidelines for reimbursement of institutions described in this subsection. Such reimbursement shall take into account the nutritional requirements of eligible persons, as determined by the Secretary on the basis of tested nutritional research, except that such reimbursement shall not be less than would otherwise be required under this section.".

SEC. 642. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 644. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

SEC. 645. Effective August 30, 1989, none of the funds available in this Act for the Special Supplemental Food Program for Women, Infants, and Children (WIC) may be used by a State if that State has not examined the feasibility of implementing cost containment procedures described in section 3 of the Commodity Distribution Reform Act and WIC Amendments of 1988 (7 U.S.C. 612c note) (including infant formula rebates) for acquiring infant formula and, where practicable, other foods that are necessary to carry out such program, and if the State has determined that such a procedure would lower costs and enable more eligible persons to be served (without interference with the delivery of nutritious foods to recipients) and has not initiated action to implement such procedures. The Secretary may extend the effective date of implementation on a case-by-case basis where necessary.

SEC. 646. Effective October 1, 1989, section 6.29 of the Farm Credit Act of 1971 (12 U.S.C. 2278b–9) is amended by—

(1) in subsection (a)(1), striking out "Except as provided in

paragraph (2)," and inserting in lieu thereof "Except as provided in paragraphs (2) and (3),",

(2) adding at the end of subsection (a) the following new paragraph:

"(3) PERIODIC PURCHASES.—(A) Notwithstanding any other provision of this section, the Financial Assistance Corporation shall establish a program under which System institutions shall purchase, as debt obligations are issued under section 6.26(a), stock of the Corporation in amounts described in this paragraph.

"(B) The program shall provide, with respect to each issuance of debt obligations under section 6.26(a), that each System institution originally required to purchase stock under paragraph (1), or the successor thereto, shall purchase Corporation stock in an amount determined by multiplying the amount of stock such institution was originally required to purchase under that paragraph by a percentage equal to the percentage which the amount of the issuance bears to $4,000,000,000.

"(C) The Financial Assistance Corporation shall promptly rescind purchases of stock of the Corporation made under paragraph (1) or (2) by System institutions and refund to such institutions, or their successors, the purchase price for the stock, except that, with respect to each issuance of debt obligations that occurs before October 1, 1988, the Corporation shall deduct from any refund due any System institution, and retain, the amount payable by such institution.",

(3) in subsection (c)—

(A) striking out "Within" and inserting in lieu thereof "(1) Within",

(B) striking out "(1) the" and inserting in lieu thereof "(A) the ", and

(C) striking out "(2) in the case" and inserting in lieu thereof "(B) in the case", and

(4) adding at the end thereof the following new paragraph:

"(2) Not later than 15 days before each issuance of debt obligations under section 6.26(a) occurring after September 30, 1988, the Financial Assistance Corporation shall notify each System institution required to purchase Corporation stock under subsection (a)(3) of the amount of the stock it is required to purchase.".

This Act may be cited as the "Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989".

Approved October 1, 1988.

LEGISLATIVE HISTORY—H.R. 4784

HOUSE REPORTS: No. 100-690 (Comm. on Appropriations) and No. 100-990 (Comm. of Conference).

SENATE REPORT No. 100-389 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 10, reported in the House.

June 16, considered and passed House.

June 20, reported in the Senate.

July 28 and 29, considered and passed Senate, amended.

Sept. 28, conference report filed in the House.

Sept. 29, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments, and insisted on disagreement to certain Senate amendments.

Sept. 30, Senate agreed to conference report; concurred in House amendments and receded from its amendments.

Grand total:		
New budget (obligational) authority	$42,512,839,000	
By transfer	*(4,695,283,000)*	
Loan authorization	*(14,069,801,000)*	
Limitation on obligations	*(462,355,000)*	
Limitation on administrative expenses	*(107,856,000)*	
Total, new budget (obligational) authority, Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989		$42,512,839,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1989 contained in the foregoing annual appropriations act, the following additional amounts are available for the Department of Agriculture for the fiscal year:

Permanent appropriations:		
Federal funds (pp. 2222-2224)	[1] $7,313,114,000	
Trust funds (pp. 2240-2241)	400,435,000	
Appropriations in legislative acts:		
Agriculture Credit Insurance Fund, Federal funds (P.L. 100-387) (p. 2353)	40,000,000	
Commodity Credit Corporation Fund, Federal funds (P.L. 100-387) (p. 2353)	370,000,000	
Commodity Credit Corporation Fund, Federal funds (P.L. 100-449) (p. 2353)	2,000,000	
Department of the Interior and Related Agencies Appropriations Act, 1989:		
Forest Service (pp. 260-266)	1,845,011,000	
Subtotal, additions		9,970,560,000
Deduct amounts transferred to Department of Health and Human Services, Department of the Treasury, and General Government totals:		
Department of Health and Human Services:		
Food and Drug Administration (pp. 384-385)	$531,406,000	
Department of the Treasury (p. 385)	175,000,000	
General Government:		
Commodity Futures Trading Commission (p. 385)	34,723,000	
Subtotal, deductions		−741,129,000
Grand total, Department of Agriculture		51,742,270,000

[1] Excludes the President's Budget request for $15,533,425,000 as authority to borrow under "Permanent Federal funds". The Congress provided a current appropriation in lieu of the permanent borrowing authority. The current request was based on the President's estimate of $9,828,286,000 (see p. I-E3, Budget Appendix for fiscal year 1989 H. Doc. 100-153).

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1989

Public Law 100-457

100th Congress, H.R. 4794

September 30, 1988

AN ACT

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of Transportation, including not to exceed $30,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine; $1,071,000 for the Immediate Office of the Secretary; $464,000 for the Immediate Office of the Deputy Secretary; $6,000,000 for the Office of the General Counsel; $7,950,000 for the Office of the Assistant Secretary for Policy and International Affairs; $2,241,000 for the Office of the Assistant Secretary for Budget and Programs; $2,265,000 for the Office of the Assistant Secretary for Governmental Affairs; $24,300,000 for the Office of the Assistant Secretary for Administration; $1,455,000 for the Office of the Assistant Secretary for Public Affairs; $824,000 for the Executive Secretariat; $440,000 for the Contract Appeals Board; $1,305,000 for the Office of Civil Rights; $585,000 for the Office of Commercial Space Transportation; $1,727,000 for the Office of Essential Air Service; and $3,915,000 for the Office of Small and Disadvantaged Business Utilization, of which $3,000,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: *Provided,* That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

[*Total, Salaries and Expenses, $54,542,000.*]

$1,071,000
464,000
6,000,000
7,950,000
2,241,000
2,265,000
24,300,000
1,455,000
824,000
440,000
1,305,000
585,000
1,727,000
3,915,000

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, $5,600,000.

5,600,000

Working Capital Fund

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $130,350,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriations Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation; for necessary expenses associated with the development of the Departmental Accounting and Financial Information System, $3,200,000 to remain available until expended. *$130,350,000 (limitation on working capital fund)* 3,200,000

Payments to Air Carriers

For payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $25,000,000, to remain available until expended. 25,000,000

[Total, Office of the Secretary, $88,342,000.]

COAST GUARD

Operating Expenses

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b); and recreation and welfare, $2,100,616,000 is authorized to be appropriated, derived by transfer, or otherwise provided in "in kind" commodities and services for Coast Guard operating expenses in fiscal year 1989; of which $1,896,116,000 is hereby appropriated of which $30,000,000 shall be expended from the Boat Safety Account: *Provided*, That of the funds provided for operating expenses for fiscal year 1989, in this or any other Act, not less than $492,000,000 shall be available for drug enforcement activities and not less than $147,000,000 shall be available for environmental protection activities: *Provided further*, That, of the funds provided in this Act for "Acquisition, Construction, and Improvements", $4,500,000 shall be transferred to this head to reopen and maintain the Coast Guard search and rescue stations located at Shark River, New Jersey; East Port, Maine; Block Island, Rhode Island; Ashtabula, Ohio; North Superior, Minnesota; Lake Tahoe, California; Kennewick, Washington; Kauai, Hawaii; and Mare Island, California; and to reactivate the Coquille and Rogue River Patrols in Oregon: *Provided further*, That, within available funds, the Coast Guard shall maintain the Coast Guard search and rescue station located at Bayfield, Wisconsin on a year-round basis: *Provided further*, That the number of aircraft on hand at any one time shall not exceed two hundred and fourteen, exclusive of planes and parts stored to meet future attrition: *Provided further*, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109 except to the extent fees are collected from yacht owners and credited to this appropriation. [1] 1,896,116,000 *4,500,000 (by transfer)*

[1] In addition, $200,000,000 ($140,000,000 of in-kind operating assistance and $60,000,000 new budget authority) is provided in the Department of Defense Appropriations Act, 1989 (P.L. 100-463, sec. 8110) (p. 94, this volume).

Acquisition, Construction, and Improvements

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $295,000,000, to remain available until September 30, 1993: *Provided*, That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: *Provided further*, That any such written warranty shall not apply in the case of any system or component thereof that has been furnished by the Government to a contractor: *Provided further*, That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries of the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: *Provided further*, That the requirements for such written warranties shall not cover combat damage. [1] $295,000,000

Alteration of Bridges

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for alteration or removal of obstructive bridges, $8,500,000, together with $5,000,000 to be derived from "Acquisition, construction, and improvements", to remain available until expended. 8,500,000
5,000,000
(by transfer)

Retired Pay

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C., ch. 55), $410,800,000. 410,800,000

Reserve Training

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $67,000,000. 67,000,000

Research, Development, Test, and Evaluation

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $18,800,000, to remain available until expended: *Provided*, That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation. 18,800,000

Offshore Oil Pollution Compensation Fund

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations in such amounts and at such times as may be necessary to the extent that

[1] In addition, $50,300,000 is provided in the Military Construction Appropriations Act, 1989 (P.L. 100-447, Coast Guard Shore Facilities) (p. 350, this volume).

appropriations are not adequate to meet the obligations of the Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,000,000 in fiscal year 1989 for the "Offshore Oil Pollution Compensation Fund". [1] *$60,000,000 (limitation)*

DEEPWATER PORT LIABILITY FUND

The Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations in such amounts and at such times as may be necessary to the extent that available appropriations are not adequate to meet the obligations of the Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $50,000,000 in fiscal year 1989 for the "Deepwater Port Liability Fund". [1] *50,000,000 (limitation)*

BOAT SAFETY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred for recreational boating safety assistance under Public Law 92-75, as amended, $30,000,000, to be derived from the Boat Safety Account and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $30,000,000 in fiscal year 1989 for recreational boating safety assistance. *30,000,000 (liquidation of contract authorization) 30,000,000 (limitation on obligations)*

[Total, Coast Guard, $2,696,216,000.]

FEDERAL AVIATION ADMINISTRATION

HEADQUARTERS ADMINISTRATION

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Federal Aviation Administration, including but not limited to accounting, budgeting, legal, public affairs, and executive direction services for the Federal Aviation Administration, $36,600,000. 36,600,000

OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, purchase of four passenger motor vehicles for replacement only, $3,410,000,000, of which $471,320,000 shall be derived from the Airport and Airway Trust Fund: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities: *Provided further,* That none of these funds shall be available for new applicants for the second career training program or for a pilot test of contractor maintenance: *Provided further,* That the immediately preceding proviso shall not prohibit the augmentation of the existing field maintenance work force if it is determined to be essential for the safe operation of the air traffic control system: *Provided further,* That section 5532(f)(2) of title V, United States Code, is 3,410,000,000

[1] Included in totals for "Limitation on Obligations" (p. 413 and p. 425).

amended by striking "December 31, 1988" and inserting "December 31, 1989" in lieu thereof: *Provided further,* That section 8344(h) of title V, United States Code, is amended by striking "December 31, 1986" in paragraph (2) and inserting "December 31, 1987" in lieu thereof: *Provided further,* That in the event that the Federal Aviation Administrator employs annuitants subject to section 8344(h) of title V, United States Code, not to exceed $10,000,000, to be derived from the unobligated balance of any appropriation available for obligation by the Federal Aviation Administration as of the effective date of this Act, shall be available through December 31, 1989, for the purpose of funding such employment: *Provided further,* That any such funding shall be reported to the Committees on Appropriations of the Senate and the House of Representatives. *$10,000,000 (by transfer)*

[*Subtotal, Headquarters Administration and Operations, $3,446,600,000.*]

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1993, $1,384,528,000: *Provided,* That 1,384,528,000 there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further,* That of the funds available under this head, $1,000,000 shall be available for the Secretary of Transportation to enter into grant agreements with universities or colleges having an airway science curriculum recognized by the Federal Aviation Administration, to conduct demonstration projects in the development, advancement, or expansion of airway science curriculum programs, and such funds, which shall remain available until expended, shall be made available under such terms and conditions as the Secretary of Transportation may prescribe, to such universities or colleges for the purchase or lease of buildings and associated facilities, instructional materials, or equipment to be used in conjunction with airway science curriculum programs, but in no event shall the total Federal share provided for any airway science construction project exceed 50 per centum of the total cost of such project: *Provided further,* That upon FAA determination that a new permanent auxiliary air traffic control tower at the Orlando International Airport is needed, and upon approval by FAA of the design and location of such tower, up to $5,800,000 shall be set aside from funds made available for Facilities and Equipment for construction of the tower.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301–1542), including construction of experimental facilities and acquisition of necessary sites by

lease or grant, $160,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development. $160,000,000

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING RESCISSION)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $1,150,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,400,000,000 in fiscal year 1989 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982, as amended: *Provided further,* That $100,000,000 of unobligated contract authority available for airport development and planning pursuant to section 505(a) of the Airport and Airway Improvement Act of 1982, as amended, is rescinded: *Provided further,* That no grants-in-aid the commitments for which are subject to a limitation contained in this paragraph shall be made to the Massachusetts Port Authority subsequent to a determination by the Department of Transportation that the landing fee structure adopted by the Massachusetts Port Authority on March 16, 1988, for Logan International Airport, is inconsistent with the Federal Aviation Act of 1958 (49 U.S.C. app. 1301 et seq.), or the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. app. 2201 et seq.), or with national transportation policy, if such fee structure remains in effect more than seven days after such determination is made: *Provided further,* That the Department of Transportation shall make a determination on the consistency of the landing fee structure prior to December 17, 1988.

1,150,000,000 (liquidation of contract authorization)
1,400,000,000 (limitation on obligations)
−100,000,000 *(rescission)*

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7,

(borrowing authority)

1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). None of the funds in this Act shall be available for the implementation or execution of programs under this head the obligations for which are in excess of $50,000,000 during fiscal year 1989. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

$50,000,000 (limitation on borrowing authority)

[Total, Federal Aviation Administration (net), $4,891,128,000.]

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed $217,350,000, shall be paid in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided*, That not to exceed $33,427,000 of the amount provided herein shall remain available until expended: *Provided further*, That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities, and private sources, for training expenses incurred for non-Federal employees.

217,350,000 (limitation on general operating expenses)

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

(HIGHWAY TRUST FUND)

For necessary expenses in carrying out the provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $6,080,000.

6,080,000

HIGHWAY-RELATED SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $10,000,000, to be derived from the Highway Trust Fund: *Provided*, That not to exceed $100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": *Provided further*, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $9,405,000 in fiscal year 1989 for "Highway-related safety grants".

10,000,000 (liquidation of contract authorization)

9,405,000 (limitation on obligations)

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $7,560,000, of which $5,040,000 shall be derived from the Highway Trust Fund. $7,560,000

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $12,000,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1989. *12,000,000,000 (limitation on obligations)*

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $12,700,000,000, or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended. *12,700,000,000 (liquidation of contract authorization)*

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

During fiscal year 1989 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $46,000,000. *46,000,000 (limitation on direct loans)*

MOTOR CARRIER SAFETY

For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of Transportation Act (80 Stat. 939–940), $27,000,000, of which $1,920,000 shall remain available until expended. 27,000,000

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97–424, $50,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,000,000 for "Motor carrier safety grants". *50,000,000 (liquidation of contract authorization) 60,000,000 (limitation on obligations)*

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

Notwithstanding any other provision of law, there is appropriated $1,291,000 for necessary expenses of certain access highway projects, as authorized by section 155, title 23, United States Code, to remain available until expended. $1,291,000

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970 for the Baltimore-Washington Parkway, to remain available until expended, $12,825,000, to be derived from the Highway Trust Fund and to be withdrawn therefrom at such times and in such amounts as may be necessary. 12,825,000

INTERMODAL URBAN DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses to carry out the provisions of section 124 of the Federal-Aid Highway Amendments of 1974, $8,550,000, to be derived from the Highway Trust Fund and to remain available until expended. 8,550,000

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

For necessary expenses to carry out construction projects as authorized by Public Law 99-500 and Public Law 99-591, $8,550,000, to be derived from the Highway Trust Fund and to remain available until expended. 8,550,000

AIRPORT ACCESS DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses to carry out a demonstration project in the vicinity of the Ontario International Airport in San Bernardino County, California, for the purpose of demonstrating methods of improving highway access to an airport that is projected to incur a substantial increase in air service, $1,300,000, to remain available until expended and to be derived from the Highway Trust Fund. 1,300,000

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway improvements in the vicinity of Pontiac and East Lansing, Michigan, that demonstrates methods of enhancing safety and promoting economic development through widening and resurfacing of highways on the Federal-aid primary system and on roads on the Federal-aid urban system, as authorized by Public Law 99-500 and Public Law 99-591, $1,260,000, to be derived from the Highway Trust Fund and to remain available until expended. 1,260,000

HIGHWAY-RAILROAD GRADE CROSSING SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway-railroad grade crossing separations in Mineola, New York, that demonstrates methods of enhancing highway-railroad crossing safety while minimizing surrounding environmental effects, as authorized by Public Law 99-500 and Public Law 99-591, $8,100,000, to be derived from the Highway Trust Fund and to remain available until expended. $8,100,000

NUCLEAR WASTE TRANSPORTATION SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses for a project to construct a relief route in the Los Alamos-Santa Fe, New Mexico corridor that demonstrates methods of improving the safety of transporting nuclear waste by constructing an alternate route with specific safety features, $3,600,000, to be derived from the Highway Trust Fund and to remain available until expended. 3,600,000

HIGHWAY WIDENING DEMONSTRATION PROJECT

For necessary expenses to carry out a demonstration project to improve U.S. Route 202 in the vicinity of King of Prussia, Pennsylvania, as authorized by Public Law 100-202, $1,800,000, to remain available until expended. 1,800,000

BRIDGE IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project in the vicinity of Jacksonville, Florida, for the purpose of demonstrating methods of reducing traffic congestion and improving efficiency in the trans-shipment of military and civilian cargo by construction of a bridge to Blount Island, widening State Highway 105 (Heckscher Drive) and constructing an interchange at the intersection of Heckscher Drive and the new Blount Island Bridge, $8,550,000, to remain available until expended. 8,550,000

HIGHWAY WIDENING AND IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project between Paintsville and Prestonsburg, Kentucky, that demonstrates the safety and economic benefits of widening and improving highways in mountainous areas, $4,100,000, to remain available until expended. 4,100,000

INTERSECTION SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for the reconstruction of an intersection at Aviation Boulevard and Rosecrans Avenue to include the completion of Douglas Street in the vicinity of El Segundo, California, for the purpose of demonstrating methods of improved highway and highway safety construction, $900,000, to remain available until expended. 900,000

HIGHWAY CAPACITY IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for

U.S. Route 231 between U.S. Route 90 and the City of Campbellton in Jackson County, Florida, for the purpose of demonstrating methods of expanding a two-lane segment of a U.S. highway to four lanes, $900,000, to remain available until expended. $900,000

CLIMBING LANE SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for U.S. Route 15 in the vicinity of Tioga County, Pennsylvania, for the purpose of demonstrating methods of improved highway and highway safety construction, $450,000, to remain available until expended. 450,000

INDIANA INDUSTRIAL CORRIDOR SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for an improved route between Wabash and Huntington, Indiana, for the purpose of demonstrating the safety and economic benefits of widening and improving rural highways, $1,000,000, to remain available until expended. 1,000,000

UTAH PEDESTRIAN SAFETY DEMONSTRATION PROJECT

Of the funds made available to the State of Utah by section 149 of Public Law 100-17, to remain available until expended, $1,000,000 shall be available only to carry out preliminary engineering, environmental studies, and right-of-way acquisition to widen 8400 West in Magna, Utah, for the purpose of demonstrating methods of improved highway and highway safety construction.

OKLAHOMA HIGHWAY WIDENING DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to widen Oklahoma State Route 53 from Interstate Highway 35 east to the entrance of the Ardmore Regional Industrial Airpark for the purpose of demonstrating methods of improved highway and highway safety construction, $400,000, to remain available until expended. 400,000

ALABAMA HIGHWAY BYPASS DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for a highway bypass project in the vicinity of Jasper, Alabama, for the purpose of demonstrating methods of improved highway and highway safety construction, $3,600,000, to remain available until expended. 3,600,000

KENTUCKY BRIDGE DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to replace the Glover Cary Bridge in Owensboro, Kentucky, for the purpose of demonstrating methods of improved highway and highway safety construction, $3,600,000, to remain available until expended. 3,600,000

VIRGINIA HOV SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to

construct High Occupancy Vehicle lanes on Interstate Route 66 between Interstate Route 495 and U.S. Route 50 for the purpose of demonstrating methods of increasing highway capacity and safety by the use of highway shoulders to construct HOV lanes, $500,000, to remain available until expended. $500,000

URBAN HIGHWAY CORRIDOR DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to improve and upgrade the M–59 urban highway corridor in southeast Michigan, $225,000, to remain available until expended, for the purpose of demonstrating methods of improving congested urban corridors that have been neglected during construction of the Interstate system. 225,000

URBAN AIRPORT ACCESS SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to improve and upgrade access to Detroit Metropolitan Airport in southeast Michigan, $225,000, to remain available until expended, for the purpose of demonstrating methods of improving access to major urban airports. 225,000

CORRIDOR SAFETY IMPROVEMENT PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a demonstration of methods of improving vehicular and pedestrian safety on roads on the Federal-aid primary and Federal-aid secondary systems, involving Route 1 in New Jersey, there is hereby appropriated $28,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs. 28,000,000

BRIDGE CAPACITY IMPROVEMENTS

(HIGHWAY TRUST FUND)

For the purpose of carrying out the Nashua River Bridge and Broad Street Parkway project in Nashua, New Hampshire, that crosses the Nashua River, there is hereby appropriated $3,763,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs. 3,763,000

CORRIDOR H IMPROVEMENT PROJECT

For the purpose of carrying out a demonstration of methods of eliminating traffic congestion, and to promote economic benefits for the area affected by the construction of a bypass, on the Corridor H segment of the Appalachian Highway System, there is hereby appropriated $16,000,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs. 16,000,000

ROAD EXTENSION DEMONSTRATION

For 80 percent of the expenses necessary to provide for the initial planning and design of an improved and widened roadway from Prairie City, Iowa, to Burlington, Iowa, for the purpose of demonstrating the economic benefits of an improved highway to a depressed area, $600,000 is appropriated, to remain available until expended. $600,000

BRIDGE RESTORATION

For necessary expenses to carry out an historic bridge rehabilitation demonstration project, for the purpose of demonstrating the economic and transportation benefits of restoring a previously closed historic bridge, $2,000,000, to remain available until expended, shall be available to the city of Chattanooga, Tennessee, for restoration of the Walnut Street Bridge. 2,000,000

RESERVATION ROAD

For the purpose of carrying out a demonstration of economic growth and development benefits on approximately twenty-nine miles of Federal-aid secondary road connecting Interstate 10 and State Route 84, there is hereby appropriated $3,500,000 for the acquisition of rights-of-way, construction, and other costs incurred in the reconstruction of that portion of the road on the Gila Indian Reservation and the Maricopa Ak Chin Indian Reservation: *Provided,* That no Federal assistance shall be made available to carry out the project until: (1) an agreement is reached with the Indian Communities for the purchase of the required rights-of-way on the two reservations, (2) the road is accepted on the State Highway System, (3) not less than 75 percent of the rights-of-way needed for that portion of the road outside the reservation boundaries is donated by the landowners, and (4) Maricopa County and Pinal County agree to participate financially in the reconstruction of the road. 3,500,000

[*Total, Federal Highway Administration, $166,229,000.*]

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended) and the National Traffic and Motor Vehicle Safety Act, $67,899,000, of which $31,000,000 shall remain available until expended: *Provided,* That of the funds available under this head, $2,000,000 shall be available to implement the recommendations of the 1985 National Academy of Sciences report on trauma research. 67,899,000

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under chapter 4, title 23, United States Code, to be derived from the Highway Trust Fund, $30,751,000, to remain available until expended: *Provided,* That, of the funds available under this head, $2,780,000 shall be available for light truck and van safety research and analysis. 30,751,000

[*Total, Operations and Research, $98,650,000.*]

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 402, 406, and 408, and section 209 of Public Law 95–599, as amended, to remain available until expended, $130,500,000, to be derived from the Highway Trust Fund: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $115,000,000 in fiscal year 1989 for "State and community highway safety grants" authorized under 23 U.S.C. 402: *Provided further,* That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $11,000,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: *Provided further,* That not to exceed $4,850,000 shall be available for administering the provisions of 23 U.S.C. 402: *Provided further,* That notwithstanding any other provision of law, none of the funds in this Act shall be available for the planning or execution of programs authorized under section 209 of Public Law 95–599, as amended, the total obligations for which are in excess of $4,750,000 in fiscal years 1982 through 1989.

[*Total, National Highway Traffic Safety Administration, $98,650,000.*]

$130,500,000 (liquidation of contract authorization)
115,000,000 (limitation on obligations)
11,000,000 (limitation on obligations)
[1] *4,750,000 (cumulative limitation on obligations)*

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $14,975,000, of which $2,875,000 shall remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided,* That, as part of the Washington Union Station transaction the Secretary shall assume the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further,* That an additional amount of $10,000,000, of which $4,000,000 shall be derived from unobligated balances of "Grants to the National Railroad Passenger Corporation", is hereby made available only for the purpose of purchasing title to Washington Union Station as authorized by the Union Station Redevelopment Act of 1981.

[*Total, Office of the Administrator, $20,975,000.*]

14,975,000
6,000,000
4,000,000 (by transfer)

[1] Cumulative limitation on obligations for fiscal years 1982, 1983, 1984, 1985, 1986, 1987, 1988 and 1989.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $27,825,000, of which $1,140,000 shall remain available until expended. $27,825,000

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $9,286,000, to remain available until expended. 9,286,000

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and the Rail Safety Improvement Act of 1988, $19,600,000, to remain available until expended. 19,600,000

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, $584,000,000: *Provided,* That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further,* That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1989: *Provided further,* That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements prohibited by this Act or not expressly provided for in an appropriations Act shall be deemed a violation of 31 U.S.C. 1341: *Provided further,* That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): *Provided further,* That none of the funds in this or any other Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Federal sources: *Provided further,* That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum of the short-term avoidable costs of operating such service in the first year of operation and 100 per centum of the short-term avoidable operating costs for each year thereafter: *Provided further,* That none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the 584,000,000

Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Amtrak sources.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided,* That no new loan guarantee commitments shall be made during fiscal year 1989: *Provided further,* That, notwithstanding any other provision of law, the Secretary of Transportation shall sell securities or promissory notes with a principal value of at least $99,000,000 that are held by the Department of Transportation under authority of sections 502, 505-507, 509, and 511-513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, by no later than September 30, 1989: *Provided further,* That such securities or promissory notes authorized to be sold in the immediately preceding proviso shall be sold only for amounts greater than or equal to the net present value to the Government of each loan as determined by the Secretary of Transportation in consultation with the Secretary of the Treasury: *Provided further,* That the Secretary of Transportation shall transmit a written certification to the Committees on Appropriations of the Senate and House of Representatives before the consummation of each sale certifying that the amount to be realized is equal to or greater than the net present value to the Government of each loan: *Provided further,* That, notwithstanding any other provision of law, for fiscal year 1989 and each fiscal year thereafter all amounts realized from the sale of notes or securities sold under authority of this section shall be considered as current year domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That any underwriting fees and related expenses shall be derived solely from the proceeds of the sales.

$99,000,000 (railroad credit enhancement)

CONRAIL COMMUTER TRANSITION ASSISTANCE

For necessary capital expenses of Conrail commuter transition assistance, not otherwise provided for, $4,500,000, to remain available until expended. 4,500,000

[*Total, Federal Railroad Administration, $666,186,000.*]

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $31,882,000 of which not to exceed $600,000 shall be available for the Office of the Administrator. 31,882,000

RESEARCH, TRAINING, AND HUMAN RESOURCES

For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $10,000,000: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for training. $10,000,000

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $1,600,000,000, together with $5,000,000 to carry out the provisions of section 18(h) of the Urban Mass Transportation Act of 1964, as amended, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, of the funds provided under this Act for formula grants, no more than $804,691,892 may be used for operating assistance under section 9(k)(2) of the Urban Mass Transportation Act of 1964, as amended: *Provided further*, That, notwithstanding any other provision of law, before apportionment of these funds, $18,000,000 shall be made available for the purposes of section 18 of the Urban Mass Transportation Act of 1964, as amended. 1,600,000,000 5,000,000

[*Total, Formula Grants, $1,605,000,000.*]

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs in excess of $1,140,000,000 in fiscal year 1989 for grants under the contract authority authorized in section 21(a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.). *1,140,000,000 (limitation on obligations)*

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21(a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, $400,000,000, to be derived from the Highway Trust Fund and to remain available until expended. *400,000,000 (liquidation of contract authorization)*

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $2,000,000,000, to remain available until expended. [1] 200,000,000

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96–184, $168,000,000, to remain available until expended. 168,000,000

[*Total, Urban Mass Transportation Administration, $2,014,882,000.*]

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[1] Enrolled erroneously as $2,000,000,000 and corrected in P.L. 101–45, Title III, Technical Corrections, sec. 305.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

Operations and Maintenance

(Harbor Maintenance Trust Fund)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $11,100,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662. $11,100,000

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Research and Special Programs

For expenses necessary to discharge the functions of the Research and Special Programs Administration, and for expenses for conducting research and development, $14,800,000, of which $1,650,000 shall remain available until expended: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training and for aviation information management. 14,800,000

Pipeline Safety

(Pipeline Safety Fund)

For expenses necessary to conduct the functions of the pipeline safety program and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, $9,300,000, to be derived from the Pipeline Safety Fund, of which $5,125,000 shall remain available until expended. 9,300,000

[*Total, Research and Special Programs Administration, $24,100,000.*]

OFFICE OF THE INSPECTOR GENERAL

Salaries and Expenses

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $29,000,000. 29,000,000

[*Total, title I, Department of Transportation:*

[*New budget (obligational) authority (net)*	*$10,685,833,000.*]
[*Appropriations*	*10,785,833,000.*]
[*Rescission*	*−100,000,000.*]
[*By transfer*	*23,500,000.*]
[*Limitation on general operating expenses*	*217,350,000.*]
[*Limitation on borrowing authority*	*50,000,000.*]

[*Limitation on obligations*	*$14,875,405,000.*]
[*Limitation on cumulative obligations*	*4,750,000.*]
[*Limitation on working capital fund*	*130,350,000.*]
[*Limitation on direct loans*	*46,000,000.*]
[*Appropriations to liquidate contract authorizations*	*14,470,500,000.*]

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Salaries and Expenses

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $1,891,000. $1,891,000

NATIONAL TRANSPORTATION SAFETY BOARD

Salaries and Expenses

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $25,360,000, of which not to exceed $500 may be used for official reception and representation expenses. 25,360,000

INTERSTATE COMMERCE COMMISSION

Salaries and Expenses

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $1,500 for official reception and representation expenses, $43,115,000: *Provided,* That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such. 43,115,000

Payments for Directed Rail Service

(Limitation on Obligations)

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $475,000 for directed rail service authorized under 49 U.S.C. 11125 or any other Act. *475,000 (limitation on obligations)*

PANAMA CANAL COMMISSION

Panama Canal Revolving Fund

For administrative expenses of the Panama Canal Commission, including not to exceed $10,000 for official reception and representation expenses of the Board; not to exceed $4,000 for official reception and representation expenses of the Secretary; and not to exceed $25,000 for official reception and representation expenses of the Administrator, $50,287,000, to be derived from the Panama Canal Revolving Fund: *Provided,* That none of these funds may be used for *50,287,000 (administrative expenses)*

the planning or execution of non-administrative and capital programs the obligations for which are in excess of $436,548,000 in fiscal year 1989: *Provided further,* That funds available to the Panama Canal Commission shall be available for the purchase of not to exceed forty-four passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama, the purchase price of which shall not exceed $15,000 per vehicle). *$436,548,000 (limitation on operating and capital expenses)*

DEPARTMENT OF THE TREASURY

Rebate of Saint Lawrence Seaway Tolls

(Harbor Maintenance Trust Fund)

For rebate of the United States portion of tolls paid for use of the Saint Lawrence Seaway, pursuant to Public Law 99-662, $10,700,000, to remain available until expended and to be derived from the Harbor Maintenance Trust Fund, of which not to exceed $300,000 shall be available for expenses of administering the rebates. 10,700,000

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Interest Payments

For necessary expenses for interest payments, to remain available until expended, $51,663,569: *Provided,* That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement. 51,663,569

[*Total, title II, Related Agencies:*
[*New budget (obligational) authority* ..... *$132,729,569.*]
[*Limitation on obligations* ..... *475,000.*]
[*Panama Canal revolving fund administrative expenses* ..... *50,287,000.*]
[*Panama Canal revolving fund limitation on operating and capital expenses* ..... *436,548,000.*]

TITLE III—GENERAL PROVISIONS

(INCLUDING TRANSFER OF FUNDS AND RESCISSION)

Sec. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

Sec. 302. Funds for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law that are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

Sec. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed

outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18.

SEC. 305. None of the funds for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year nor may any be transferred to other appropriations unless expressly so provided herein.

SEC. 308. None of the funds in this or any previous or subsequent Act shall be available for the planning or implementation of any change in the current Federal status of the Transportation Systems Center, and none of the funds in this Act shall be available for the implementation of any change in the current Federal status of the Turner-Fairbank Highway Research Center.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 310. (a) For fiscal year 1989 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1988, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection: *Provided,* That this subsection shall not apply to funds obligated for the Dan Ryan Expressway.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction that have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1989, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute

sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highway program, the strategic highway research program and amounts made available under sections 149(d), 158, 159, 164, 165, and 167 of Public Law 100–17.

(d) The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1989 shall not apply to obligations for emergency relief under section 125 of title 23, United States Code; obligations under section 157 of title 23, United States Code; projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97–424, section 118 of the National Visitors Center Facilities Act of 1968, section 320 of title 23, United States Code; projects authorized by Public Law 99–500, Public Law 99–591 and Public Law 100–202; or projects covered under subsections 149 (b) and (c) of Public Law 100–17.

(e) Subject to paragraph (c)(2) of this General Provision, a State which after August 1 and on or before September 30 of fiscal year 1989 obligates the amount distributed to such State in that fiscal year under paragraphs (a) and (c) of this General Provision may obligate for Federal-aid highways and highway safety construction on or before September 30, 1989, an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 103(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.

(f) During the period August 2 through September 30, 1989, the aggregate amount which may be obligated by all States pursuant to paragraph (e) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 103(e)(4) of such title,

which would not be obligated in fiscal year 1989 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.

(g) Paragraph (e) shall not apply to any State which on or after August 1, 1989, has the amount distributed to such State under paragraph (a) for fiscal year 1989 reduced under paragraph (c)(2).

SEC. 311. None of the funds in this Act shall be available for salaries and expenses of more than one hundred twenty political and Presidential appointees in the Department of Transportation.

SEC. 312. Not to exceed $276,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 313. None of the funds in this or any other Act shall be made available for the proposed Woodward light rail line in the Detroit, Michigan area until a source of operating funds has been approved

in accordance with Michigan law: *Provided,* That this limitation shall not apply to alternatives analysis studies under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended.

SEC. 314. The limitation on obligations for the Discretionary Grants program of the Urban Mass Transportation Administration shall not apply to any authority under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended, previously made available for obligation.

SEC. 315. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of, or any other costs related to, the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan.

SEC. 316. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 317. (a) SAFETY ENFORCEMENT PROGRAM PERFORMANCE.—The Secretary of Transportation shall on or before January 1 of each year transmit to the Congress a comprehensive report on the Federal Aviation Administration's prior fiscal year safety enforcement activities. The report shall include:

(1) a comparison of end-of-year staffing levels by inspector category (operations, maintenance, avionics) to staffing goals and a statement as to how staffing standards were applied to make allocations between air carrier and general aviation operations, maintenance and avionics inspectors;

(2) schedules showing the range of inspector experience by various inspector work force categories, and the number of inspectors in each of the categories who are considered fully qualified;

(3) schedules showing the number and percentage of inspectors who have received mandatory training by individual course, and the number of inspectors, by work force categories, who have received all mandatory training;

(4) a description of the criteria used to set annual work programs, an explanation of how these criteria differ from criteria used in the prior fiscal year and how the annual work programs ensure compliance with appropriate Federal regulations and safe operating practices;

(5) a comparison of actual inspections performed during the fiscal year to the annual work programs disaggregated to the field locations and, for any field location completing less than 80 percent of its planned number of inspections, an explanation as to why annual work program plans were not met;

(6) a statement of the adequacy of Federal Aviation Administration internal management controls available to ensure that field managers are complying with Federal Aviation Administration policies and procedures including those regarding inspector priorities, district office coordination, minimum inspection standards, and inspection followup;

(7) the status of the Federal Aviation Administration's efforts to update inspector guidance documents and Federal regulations to include technological, management, and structural changes taking place within the aviation industry, including a listing of the backlog of all proposed regulatory changes;

(8) a list of the specific operational measures of effectiveness—"best proxies" standing between the ultimate goal of accident prevention and ongoing program activities—that are being used to evaluate progress in meeting program objectives, the quality of program delivery, and the nature of emerging safety problems;

(9) a schedule showing the number of civil penalty cases closed during the two prior fiscal years, including total initial

assessments, total final assessments, total dollar amount collected, range of dollar amount collected, average case processing time, and range of case processing time;

(10) a schedule showing the number of enforcement actions taken, excluding civil penalties, during the two prior fiscal years, including total number of violations cited, and the number of cited violation cases closed by certificate suspension, certification revocations, warnings, and no action taken; and

(11) schedules showing the aviation industry's safety record during the fiscal year for air carriers and general aviation, including the number of inspections performed where deficiencies were identified compared with inspections where no deficiencies were found and the frequency of safety deficiencies per carrier as well as an analysis based on the data of the general status of air carrier and general aviation compliance with Federal Aviation Regulations.

(b) LONG-RANGE NATIONAL TRANSPORTATION STRATEGIC PLANNING STUDY.—The Department of Transportation shall undertake a long-range, multi-modal national transportation strategic planning study. This study shall forecast long-term needs and costs for developing and maintaining facilities and services to achieve a desired national transportation program for moving people and goods in the year 2015. The study shall include detailed analyses of transportation needs within six to nine metropolitan areas that have diverse population, development, and demographic patterns, including at least one interstate metropolitan area. This study shall be submitted to Congress on or before October 1, 1989.

SEC. 318. Within seven calendar days of the obligation date, the Urban Mass Transportation Administration shall publish in the Federal Register an announcement of each grant obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended, including the grant number, the grant amount, and the transit property receiving each grant.

SEC. 319. None of the funds appropriated in this Act may be used to prescribe, implement, or enforce a national policy specifying that only a single type of visual glideslope indicator can be funded under the facilities and equipment account or through the airport improvement program: *Provided,* That this prohibition shall not apply in the case of airports that are certified under part 139 of the Federal Aviation Regulations.

SEC. 320. Notwithstanding any other provision of law, funds appropriated in this or any other Act intended for studies, reports, or research, and related costs thereof including necessary capital expenses, are available for such purposes to be conducted through contracts or financial assistance agreements with the educational institutions that are specified in such Acts or in any report accompanying such Acts.

SEC. 321. The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail Project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area.

SEC. 322. (a) Notwithstanding any provision of this or any other law, none of the funds provided by this Act for appropriation shall be available for payment to the General Services Administration for rental space and services at rates per square foot in excess of 102 percent of the rates paid during fiscal year 1988; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1988 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act.

(b) Notwithstanding any other provision of law, fiscal year 1989 obligations and outlays of "General Services Administration, Federal Buildings Fund" are reduced by an amount equal to the revenue reduction to such Fund pursuant to subsection (a).

SEC. 323. Notwithstanding any other provision of law, section 144(g)(2) of title 23, United States Code, shall not apply to the Virginia Street Bridge in Charleston, West Virginia.

SEC. 324. Notwithstanding any other provision of law, the Secretary shall make available $250,000 per year for a national public information program to educate the public of the inherent hazard at railway-highway crossings. Such funds shall be made available out of funds authorized to be appropriated out of the Highway Trust Fund, pursuant to section 130 of title 23, United States Code.

SEC. 325. (a) The waters described in subsection (b) are declared to be nonnavigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

(b) The waters referred to in subsection (a) are a drainage canal which—

(1) is an unnamed tributary of the creek known as Newton Creek, located at block 641 (formerly designated as block 860) in the city of Camden, New Jersey;

(2) originates at the north bank of Newton Creek approximately 1,200 feet east of the confluence of Newton Creek and the Delaware River; and

(3) terminates at drainage culverts on the west side of Interstate Highway 676.

SEC. 326. TEXAS TOLL ROAD PILOT PROGRAM.—Section 129(j) of title 23, United States Code, is amended—

(1) in paragraph (6) by inserting "(and, in the case of the State of Texas, the Texas Turnpike Authority)" after "State highway department"; and

(2) by adding at the end of such section the following new paragraph:

"(10) SPECIAL RULE FOR FUNDING OF TEXAS PROJECT.—Upon request of the Texas Department of Highways and Public Transportation and subject to such terms and conditions as such Department and the Texas Turnpike Authority may agree, the Secretary shall reimburse the Texas Turnpike Authority for the Federal share of the costs of construction of the project carried out in the State of Texas under this subsection in the same manner and to the same extent as such Department would be reimbursed if such project was being carried out by such Department. The reimbursement of funds under this paragraph shall be from sums apportioned to the State of Texas under this chapter and available for obligation on projects on the Federal-aid primary system in such State.".

SEC. 327. (a) INTERNATIONAL ZARAGOSA BRIDGE.—For 50 per centum of the total expenses necessary to construct the International Zaragosa Bridge in El Paso, Texas, $3,000,000 is hereby appropriated to remain available until expended: *Provided,* That, notwithstanding any other provision of law, the Secretary shall make these funds available to the City of El Paso to pay for 100 per centum of the cost of the United States portion of the bridge, the construction of which shall be carried out in the same manner as other similar Federal-aid highway projects: *Provided further,* That funds appropriated under this section shall not be available until an agreement has been reached between all involved entities to repay the United States Treasury over a 30-year time period for the amount appropriated herein, plus interest, out of any tolls collected. $3,000,000

(b) RESCISSION.—Notwithstanding any other provision of law, there is hereby rescinded, effective October 1, 1988, $3,000,000 of the funds apportioned to the State of Texas pursuant to section 157 of title 23, United States Code: *Provided,* That this rescission shall −3,000,000 *(rescission)*

have no effect on any takedowns or limitations already made from these funds.

SEC. 329. This section shall expire on December 31, 1990. Notwithstanding any other provision of law, none of the funds provided by this Act or any previous or subsequent Act shall be used to plan, design, construct, or approve an interchange or any other highway facility providing access to or from I-66 between the existing United States Route 29 interchange at Gainesville (I-66 exit numbered 10) and the existing Route 234 interchange (I-66 exit numbered 11); nor shall any funds provided by this Act or any previous or subsequent Act be used to plan, design, construct, or approve an interchange or any other highway facility providing access to or from United States Route 29 between the existing I-66 interchange at Gainesville (I-66 exit numbered 10) and the existing Route 234 intersection; nor shall any funds provided by this Act or any previous or subsequent Act be used to plan, design, construct, or approve an interchange or any other highway facility that provides access to or from adjacent properties and the proposed Route 234 Bypass between I-66 and United States Route 29: *Provided,* That this section shall not apply to the use of Federal funds necessary to make safety-related improvements to existing roads.

SEC. 330. (a) UMTA CHARTER SERVICE RULE.—Notwithstanding any other provision of law or regulation, the Urban Mass Transportation Administration charter service rule (49 CFR Part 604—charter service) and any subsequent Federal regulations governing charter service shall not apply to the Long Beach Public Transportation Company.

(b) ALABAMA FEASIBILITY STUDY.—For expenses necessary to carry out the Alabama Feasibility Study as authorized by section 350 of the Department of Transportation and Related Agencies Appropriations Act, 1988, Public Law 100-202, as amended, $675,000, to remain available until expended: *Provided,* That section 350(b) of such Act is amended by adding the following new sentence: "Such study shall include environmental assessment, economic analysis, and engineering.": *Provided further,* That section 350(d) of such Act is amended by striking out "1 year" and inserting in lieu thereof "2 years". $675,000

(c) EXPRESSWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT.—For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to improve an interstate highway between Lake Success and Medford, New York, that demonstrates methods of enhancing safety and reducing motor vehicle congestion through widening, $2,600,000, to remain available until expended. 2,600,000

(d) MASS TRANSIT CAPITAL FUND (LIQUIDATION OF CONTRACT AUTHORIZATION) (HIGHWAY TRUST FUND).—Funds appropriated under this heading in the Department of Transportation and Related Agencies Appropriations Act, 1988, shall be available for payment of obligations incurred in carrying out section 317(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

SEC. 331. (a) Of the funds made available under "Discretionary Grants" for fiscal year 1989 the Secretary of Transportation shall, on or before January 1, 1989, transfer $7,000,000 from the Urban Mass Transportation Administration to the Federal Highway Administration to cover the cost of the Federal share of the transit element of the Acosta Bridge replacement project in Jacksonville, Florida: *Provided,* That none of these funds shall be obligated until the Jacksonville Transportation Authority commits to the Secretary in writing that it will repay to the Urban Mass Transportation Administration the amount of Federal funds transferred by this

section if the Automated Skyway Express project is not extended across the Acosta Bridge for reasons other than the availability of sufficient Federal discretionary grants: *Provided further,* That the Jacksonville Transportation Authority's obligation to repay these funds shall not require any compensatory adjustment to previous or future apportionments made available to Jacksonville under "Formula Grants".

(b) The Secretary of Transportation shall enter into negotiations with the Jacksonville Transportation Authority to revise the existing full funding contract to provide for the expeditious release of $1,800,000 made available from "Discretionary Grants" for the Automated Skyway Express project in fiscal year 1985 (House Report 98-1159) and $4,000,000 made available from "Discretionary Grants" for such project in fiscal year 1988 (House Report 100-498) with no compensatory adjustment to previous or future apportionments made available to Jacksonville under "Formula Grants": *Provided,* That the revised contract will provide for the completion of the 2.5 mile Automated Skyway Express project and will cover full project costs for completion of the project including Federal financial participation consisting of "Discretionary Grants" as made available by Congress: *Provided further,* That the Secretary shall commence negotiations with the Jacksonville Transportation Authority to enter into such revised contract no later than 30 days after enactment and shall conclude such negotiations no later than 90 days after enactment of this section.

SEC. 332. (a) The Federal Aviation Administration shall satisfy the following air traffic controller work force staffing requirements by September 30, 1989:

(1) total air traffic controller work force level of not less than 16,800;

(2) total full performance level air traffic controllers of not less than 10,832; and

(3) at least 70 percent of the air traffic controller work force, at each center and level 3 and above terminal shall have achieved operational controller status.

(b) The Secretary may waive any requirement of this section by certifying that such requirement would adversely affect aviation safety: *Provided,* That such a waiver shall become effective 30 days after the Committees on Appropriations of the Senate and the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirement.

SEC. 333. Notwithstanding any other provision of law, the Secretary of Transportation shall make payment of compensation under subsection 419 of the Federal Aviation Act of 1958, as amended, only to the extent and in the manner provided in appropriations Acts, at times and in a manner determined by the Secretary to be appropriate, and claim for such compensation shall not arise except in accordance with this provision.

SEC. 334. The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended, to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act: *Provided,* That, notwithstanding any other provision of law, all such letters of intent in excess of $10,000,000 shall be submitted for approval to the Committees on Appropriations of the Senate and House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 335. Section 347(d) of Public Law 100-202 is amended by striking out "(8)" each place it appears and inserting in lieu thereof

"(9)" and by striking out "State of Georgia" and inserting in lieu thereof "States of Georgia and West Virginia".

SEC. 336. Section 501(c) of the Rail Passenger Service Act (45 U.S.C. 581(c)) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of law, any commuter authority that could have contracted with Amtrak Commuter for the provision of commuter service but which elected to operate directly its own commuter service as of January 1, 1983, shall be exempt from the payment of any taxes or other fees to the same extent as the Corporation is exempt. Such exemption shall be effective as of October 1, 1981.".

SEC. 337. Notwithstanding any other provision of law, when a commuter rail service has been suspended for safety reasons, and when a statewide or regional agency or instrumentality commits to restoring such service by the end of 1989, and when the improvements needed to restore such service are funded without Urban Mass Transportation Administration funding, the directional route miles of such service shall be included in the 1988 Section 15 Report as well as subsequent years. If such service is not restored by the end of 1989, the money received as a result of the inclusion of the directional route miles shall be returned to the disbursing agency, the Urban Mass Transportation Administration.

SEC. 338. Notwithstanding any other provision of law, discretionary bridge funds allocated by the Secretary of Transportation for the Main Avenue Bridge in Cleveland, Ohio for fiscal year 1989 and each fiscal year thereafter shall not be included in any calculations made under section 157 of title 23, United States Code.

SEC. 339. Notwithstanding any other provision of law, the Secretary of Transportation shall grant a request by respective local officials to redesignate funds authorized by section 149(a)(105) of Public Law 100-17 to carry out a project in the City of Las Vegas to construct interchanges at Craig Road and U.S. 95 and, Lake Mead Boulevard and U.S. 95, the Oran Gragson Expressway, and Cheyenne Avenue and U.S. 95; as well as grade separations at Vegas Drive and U.S. 95 and Smoke Ranch Road and U.S. 95.

SEC. 340. For the purpose of carrying out emergency repairs to airports sustaining storm-related damage, $100,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended, to be disbursed by the Secretary of Transportation pursuant to the Federal Grant and Cooperative Agreement Act of 1977: *Provided,* That in no event shall the total Federal share provided for such repairs exceed 50 per centum of the total cost of such repairs. $100,000

SEC. 341. The Secretary of Transportation is authorized to transfer appropriated funds under "Office of the Secretary, Salaries and expenses": *Provided,* That no appropriation shall be increased or decreased by more than 2 per centum by all such transfers: *Provided further,* That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

SEC. 342. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act.

SEC. 343. Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating is authorized to transfer without consideration all rights, title, and interest of the United States in six and one-half acres of land, as determined by survey to be paid for by transferees, and improvements thereon, which comprise what is known as Station Gloucester City to City of Gloucester City, New Jersey.

SEC. 344. For the purpose of making grants under section 3 of the Urban Mass Transportation Act of 1964, as amended, the require-

ments of section 3(a)(2)(A)(ii) shall not apply to the Caltrain project specified in House Report 100–691, and the Urban Mass Transportation Administration shall release the amounts for that project.

SEC. 345. (a) WISCONSIN RAIL SERVICE.—There is hereby appropriated $6,000,000 for a grant by the Secretary of Transportation to the Soo Line Railroad Company to be available only for construction, rehabilitation, renewal, replacement, or other improvements to maintain railroad passenger service between La Crosse and Milwaukee, Wisconsin: *Provided*, That the Soo Line Railroad Company match on a dollar-for-dollar basis the monies hereby appropriated with funds not already planned to be committed relative to the 1989 construction season: *Provided further*, That the monies hereby appropriated shall be made available within 30 days of the presentation to the Secretary by the Soo Line Railroad Company of sufficient evidence of the availability of matching funds that are beyond those planned to be spent relative to the 1989 construction season: *Provided further*, That these Federal funds shall be made available on a monthly basis that is as close to conformance to a dollar-for-dollar matching arrangement as is possible. $6,000,000

(b) SAN JOAQUIN VALLEY RAIL SERVICE.—(1) Within 15 days of receiving adequate assurance that all necessary capital funding will be provided from a non-Amtrak source, the National Railroad Passenger Corporation shall submit an application to the Secretary of Transportation under the authority of section 402(g) of the Rail Passenger Service Act (45 U.S.C. 562) to order the operation of rail passenger service between Fresno and Stockton, California, over the rail lines of the Southern Pacific Railroad or its successors. Such application shall provide for rail service that is operated at the maximum legally permissible passenger train speeds in accordance with Federal Railroad Administration track safety standards based on the existing physical condition of the rail line.

(2) Notwithstanding any other provision of law, the Secretary of Transportation shall approve such application within 30 days of its receipt, and is authorized to amend the terms and conditions proposed in such application only for reasons of public safety.

(3) Notwithstanding any other provision of law, in the event the Interstate Commerce Commission receives an application to affix appropriate terms and conditions for the provision of this rail service under the authority of section 402(a) of the Rail Passenger Service Act, the Commission shall make a final determination on such application within 30 days of its receipt.

SEC. 346. Sections 1601 (a)(8) and (b)(3) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1551 (a)(8) and (b)(3)) and section 4(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443), are each amended by striking out "January 1, 1989" wherever it appears and inserting in lieu thereof "January 1, 1999".

SEC 347. (a) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for non-safety-related consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987. −34,171,000 *(reduction in consulting services)*

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States Government receiving funds under this Act to comply with the provisions of section 1114 of title 31, United States Code.

(c) Notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1989 is reduced by an amount equal to 15 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a).

(d) As used in this section, the term "consulting services" includes any service within the definition of "Advisory and Assistance Services" in Office of Management and Budget Circular A-120, dated January 4, 1988.

SEC. 348. Section 139 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note) is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this section or of any other provision of law, any project involving the relocation of any Interstate route or segment that is approved by the Secretary of Transportation under subsection (a) shall be eligible for discretionary funds made available under section 118(b)(2)(B) of title 23, United States Code.".

SEC. 349. Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall institute a rulemaking proceeding to consider the need for changes to the existing regulation concerning the allocation and transfer of "slots" held by air carriers and commuter operators at each of the four airports covered by the final rule regarding Slot Allocation and Transfer Methods at High Density Traffic Airports, published in the Federal Register on December 20, 1985. Included among the issues that shall be considered in this proceeding are (1) the overall effect of the existing buy-sell regulation upon new entry or limited incumbents at these four airports, (2) the effects of the recently-approved mergers and acquisitions upon the operation of the buy/sell program at these airports, (3) the competitive and fare implications of the utilization of slots for providing services to and from hub airports and on monopoly routes, (4) the effect of short-term leases of slots upon the ability of new entrants or limited incumbents to purchase slots at these airports, (5) the effect of the use of air carrier slots by commuter operators upon entry by air carriers at these airports, and (6) the variation in prices paid for slots since adoption of the buy/sell program. The Administrator shall take final action in this proceeding, including the promulgation of any resulting final regulations, not later than 270 days after the date of enactment of this Act.

SEC. 350. Notwithstanding any other provision of this Act, no funds appropriated to the Department of Transportation or the United States Coast Guard by this Act shall be used to carry out the closing of any search and rescue operation of the United States Coast Guard until after the expiration of the 90-day period following the date on which the Comptroller General of the United States reports to the Congress the results of his evaluation of the criteria used by the United States Coast Guard in determining whether or not to close out or curtail such operations, and his recommendations with respect thereto.

SEC. 351. Notwithstanding sections 141(a) and 154 of title 23, United States Code, none of the funds in this or any previous or subsequent Act shall be used for the purpose of reducing or reserving any portion of a State's apportionment of Federal-aid highway funds as required by section 154(f) of title 23, United States Code, for reason of non-compliance with the criteria of that subsection during fiscal years 1986, 1987, and 1988. The Secretary shall promptly restore any apportionments which, prior to enactment of this Act, were reduced or reserved from obligation for reason of non-compliance under section 154(f) during said fiscal years.

SEC. 352. Section 149(k)(1) of the Federal-Aid Highway Act of 1987 is amended by adding paragraph (U) as follows:

"(U) EASTPORT TO HOMEDALE, IDAHO.—The Secretary is authorized to carry out work on the United States Route 95 highway in the State of Idaho from Eastport, Idaho, to Homedale, Idaho.".

SEC. 353. Paragraph (1) of section 149(k) of the Federal-Aid Highway Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(V) UNITED STATES ROUTE 23 AND THE CHARLOTTE OUTER LOOP IN NORTH CAROLINA.—The Secretary is authorized to carry out highway projects in the State of North Carolina—

"(i) from the interchange of Interstate Routes 26, 40, and 240 in Asheville, North Carolina to the border of the State of Tennessee, and

"(ii) from Interstate Route 77S east to Interstate Route 85N of the Charlotte Outer Loop.".

SEC. 354. From funds appropriated to the Department of Transportation by this Act, the Secretary of Transportation is authorized, notwithstanding any other provision of this Act, to make available, not to exceed $500,000, to assist local interests in developing planning studies for the relocation of railroad tracks on college campuses to eliminate hazardous, unsafe, and adverse environmental conditions.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1989".

[*Total, title III, General Provisions:*
[*New budget (obligational) authority (net)* ..... *−$24,796,000.*]
[*Appropriations* ..... *−21,796,000.*]
[*Rescission* ..... *−3,000,000.*]

Approved September 30, 1988.

LEGISLATIVE HISTORY—H.R. 4794

HOUSE REPORTS: No. 100-691 (Comm. on Appropriations) and No. 100-957 (Comm. of Conference).
SENATE REPORT No. 100-411 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 10, reported in the House.
June 28, and 29, considered and passed House.
July 6, reported in the Senate.
July 12, considered and passed Senate, amended.
Sept. 22, conference report filed in the House.
Sept. 27, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments, and insisted on disagreement to certain Senate amendment.
Sept. 28, Senate agreed to conference report; concurred in certain House amendments, receded from another, and insisted on an amendment. House receded and concurred in Senate amendment.

Grand total:

New budget (obligational) authority (net)	$10,793,766,569
Appropriations	(10,896,766,569)
Rescission	(−103,000,000)
By transfer	*(23,500,000)*
Limitation on general operating expenses	*(217,350,000)*
Limitation on borrowing authority	*(50,000,000)*
Limitation on obligations	*(14,875,880,000)*
Limitation on cumulative obligations	*(4,750,000)*
Limitation on working capital fund	*(130,350,000)*
Limitation on direct loans	*(46,000,000)*

Appropriations to liquidate contract authorizations	*(14,470,500,000)*	
Panama Canal revolving fund administrative expenses	*(50,287,000)*	
Panama Canal revolving fund limitation on operating and capital expenses	*(436,548,000)*	
Total, new budget (obligational) authority, Department of Transportation and Related Agencies Appropriations Act, 1989 (net)		$10,793,766,569

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1989 contained in the foregoing annual appropriations act, the following additional amounts are available for the Department of Transportation for the fiscal year:

Permanent appropriations:		
Federal funds (p. 2232)	$75,161,000	
Trust funds (pp. 2247–2248)	16,852,569,000	
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989:		
Maritime Administration (pp. 42–43)	177,001,000	
Urgent Supplemental Appropriations Act of 1989 To Meet the Dire Emergency Created by the Crisis of Drug Abuse (P.L. 100–690):		
Coast Guard (p. 471)	116,000,000	
Subtotal, additions		17,220,731,000

Deduct amounts for independent agencies transferred to the Department of the Treasury and General Government totals:

Department of the Treasury:		
Rebate of Saint Lawrence Seaway Tolls (Harbor Maintenance Trust Fund) (p. 414)	$10,700,000	
General Government:		
Architectural and Transportation Barriers Compliance Board (p. 413)	1,891,000	
Interstate Commerce Commission (p. 413)	43,115,000	
National Transportation Safety Board (p. 413)	25,360,000	
Washington Metropolitan Area Transit Authority (p. 414)	51,663,569	
Subtotal, deductions		−132,729,569
Grand total, Department of Transportation (net)		27,881,768,000

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1989

Public Law 100–440

100th Congress, H.R. 4775

September 22, 1988

AN ACT

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I

OFFICE OF THE SECRETARY

Salaries and Expenses

For necessary expenses of the Office of the Secretary, including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $59,618,000. $59,618,000

International Affairs

For necessary expenses of the international affairs function of the Office of the Secretary; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $22,000,000. 22,000,000

[*Total, Office of the Secretary, $81,618,000.*]

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed fifteen for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $5,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided,* That the Center is authorized the acceptance of gifts: *Provided further,* That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further,* That the Federal Law Enforcement Training Center shall hire up to and maintain an average of not less than 425 direct full-time equivalent positions for fiscal year 1989; $34,664,000: *Provided further,* That none of the funds appropriated under this heading shall be used to reduce the level of advanced training or other training activities of the Federal Law Enforcement Training Center at Marana, Arizona. $34,664,000

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition, construction, improvements, and related expenses (to include design, equipment, furnishings, and other such costs) for the Federal Law Enforcement Training Center, $20,000,000 to remain available until expended: *Provided,* That of this amount, $7,000,000 shall remain available for the acquisition, renovation, and adaptation of the former Artesia Christian College campus in Artesia, New Mexico, as a facility of the Federal Law Enforcement Training Center: *Provided further,* That $13,000,000 shall be available for the first phase of implementation of the Master Plan for the expansion of the Federal Law Enforcement Training Center at Glynco, Georgia, and for on-going maintenance, facility improvements, and related equipment: *Provided further,* That the Master Plan for the Federal Law Enforcement Training Center shall make provision for construction of an advanced firearms training range for participating agencies with specialized firearms training requirements. 20,000,000

[*Total, Federal Law Enforcement Training Center, $54,664,000.*]

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $277,230,000, of which not to exceed $13,237,000, shall remain available until expended for systems modernization initiatives. 277,230,000

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed five hundred vehicles for police-type use for replacement only; and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $5,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; $234,000,000, of which $15,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1989, and of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided,* That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further* That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further,* That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device: *Provided further,* That funds made available under this Act shall be used to maintain a base level of 3,701 full-time equivalent positions for fiscal year 1989, of which no fewer than 543 full-time equivalent positions shall be allocated for the Armed Career Criminal Apprehension Program: *Provided further,* That not to exceed $2,500,000 shall be available until expended for the purchase of a mainframe processor and associated hardware and software for special occupational and excise tax processing, and $300,000 shall be available until expended for the development and implementation of a secure communications and intelligence facility. $234,000,000

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to one thousand motor vehicles for replacement only, including nine hundred and ninety for police-type use and commercial operations; hire of passenger motor vehicles; not to exceed $110,000 for official reception and representation expenses, including $100,000 to be available only for the Customs Cooperation Council meeting; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $1,025,411,000; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $4,000,000, to remain available until expended, for research: *Provided,* That uniforms may be purchased without regard to the 1,025,411,000

general purchase price limitation for the current fiscal year: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further* That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further,* That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to reduce the number of Customs Service regions below seven during fiscal year 1989: *Provided further,* That the United States Customs Service shall hire and maintain an average of not less than 16,739 full-time equivalent positions in fiscal year 1989: *Provided further,* That all of the additional full-time equivalent positions made available by this Act for the United States Customs Service over the full-time equivalent positions level of 16,099 contained in the President's budget for fiscal year 1989 shall be allocated only for commercial operations of the Customs Service in fiscal year 1989: *Provided further,* That none of the funds made available in this or any other Act may be used to fund more than nine hundred positions in the Headquarters staff of the United States Customs Service in the fiscal year ending September 30, 1989: *Provided further,* That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1989: *Provided further,* That not less than $300,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $142,262,000, to remain available until expended: *Provided,* That no aircraft or other related equipment, shall be transferred to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1989. $142,262,000

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $10,000,000, as authorized by Public Law 98-573, to be derived from deposits in the Fund. 10,000,000

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $1,588,000, for expenses for the provision of Customs services at certain small airports designated by the Secretary of the Treasury, including expenditures for the salaries and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports, and to remain available until expended. 1,588,000

[*Total, United States Customs Service, $1,179,261,000.*]

UNITED STATES MINT

Salaries and Expenses

For necessary expenses of the United States Mint; $47,000,000, of which $665,000 shall remain available until expended for research and development projects. $47,000,000

BUREAU OF THE PUBLIC DEBT

Administering the Public Debt

For necessary expenses connected with any public-debt issues of the United States; $219,430,000, of which not to exceed $700,000 shall be available for expenses of the National Economic Commission. 219,430,000

Payment of Government Losses in Shipment

For payment of Government losses in shipment, in accordance with section 2 of the Act approved July 8, 1937 (40 U.S.C. 722) $960,000, to remain available until expended. 960,000

[*Total, Bureau of the Public Debt, $220,390,000.*]

INTERNAL REVENUE SERVICE

Salaries and Expenses

For necessary expenses of the Internal Revenue Service, not otherwise provided; for executive direction and management services, and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $87,165,000, of which not to exceed $25,000 for official reception and representation expenses and of which not to exceed $500,000 shall remain available until expended, for research. 87,165,000

Processing Tax Returns

For necessary expenses of the Internal Revenue Service not otherwise provided for; including processing tax returns; revenue accounting; computer services; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,740,353,000, of which not to exceed $80,000,000 shall remain available until expended for systems modernization initiatives: *Provided,* That, of the total amount appropriated under this heading, $22,900,000 shall be available for the Statistics of Income Program in fiscal year 1989. 1,740,353,000

Examinations and Appeals

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; employee plans and exempt organizations; tax litigation; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,932,441,000. 1,932,441,000

Investigation, Collection, and Taxpayer Service

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed four hundred and fifty-one for replacement only, for police-

type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); securing unfiled tax returns; collecting unpaid accounts; examining selected employment and excise tax returns; technical rulings; enforcement litigation; providing assistance to taxpayers; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: *Provided,* That notwithstanding any other provision of the Act, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1984 levels, or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1984 levels, including, but not limited to Internal Revenue Service toll-free telephone tax law assistance and walk-in assistance available at Internal Revenue Service field offices: *Provided further,* That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at $2,800,000. The Internal Revenue Service shall absorb within existing funds the administrative costs of the program in order that the full $2,800,000 can be devoted to program requirements; $1,434,921,000. $1,434,921,000

[*Total, Internal Revenue Service, $5,194,880,000.*]

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation.

SEC. 2. Not to exceed 15 per centum, or $15,000,000, whichever is greater, of any appropriation made available to the Internal Revenue Service for document matching for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation for document matching.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided,* That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at **the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $12,500 for official reception and representation expenses; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $357,500,000, of which $2,500,000 shall remain available until expended for continued construction at the James J. Rowley Secret Service Training Center, and of which $7,126,000 shall be available for Presidential candidate protective activities pursuant to 18 U.S.C. 3056(a)(7).** 357,500,000

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 2 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 1 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 104. None of the funds made available by this Act may be used to place the United States Secret Service, the United States Customs Service, or the Bureau of Alcohol, Tobacco and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury.

This title may be cited as the "Treasury Department Appropriations Act, 1989".

[*Total, title I, Department of the Treasury, new budget (obligational) authority, $7,646,543,000.*]

TITLE II

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; $436,417,000: *Provided,* That mail for overseas voting and mail for the blind shall continue to be free: *Provided further,* That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further,* That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further,* That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1989. $436,417,000

SENSE OF SENATE PROVISION

It is the sense of the Senate that no funds appropriated under this Act or made available by 39 U.S.C. 2401(a) be used by the United States Postal Service to implement Phase II of the contract between

the United States Postal Service and Perot Systems until forty-five days after the General Accounting Office reports to Congress on the Perot Systems sole source contract and that the General Accounting Office report to Congress within forty-five days of the adoption of this amendment.

UNITED STATES POSTAL SERVICE—ADMINISTRATIVE PROVISION

SECTION 1. Funds made available to the United States Postal Service pursuant to section 2401(a) of title 39, United States Code, shall be used hereafter to continue full postal service to the people of Holly Springs proper, including upgrading, remodeling, and improving the United States Post Office building located at 110 North Memphis Street, Holly Springs, Mississippi.

This title may be cited as the "Postal Service Appropriation Act, 1989".

[*Total, title II, United States Postal Service, new budget (obligational) authority, $436,417,000.*]

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided,* That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further,* That none of the funds made available for official expenses shall be considered as taxable to the President. $250,000

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; $16,850,000, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles. 16,850,000

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $27,950,000. 27,950,000

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and

fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $5,698,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114. $5,698,000

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

Operating Expenses

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $75,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $258,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities. 258,000

SPECIAL ASSISTANCE TO THE PRESIDENT

Salaries and Expenses

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $2,199,000. 2,199,000

COUNCIL OF ECONOMIC ADVISERS

Salaries and Expenses

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $2,787,000. 2,787,000

OFFICE OF POLICY DEVELOPMENT

Salaries and Expenses

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,000,000. 3,000,000

NATIONAL CRITICAL MATERIALS COUNCIL

Salaries and Expenses

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; $225,000. 225,000

NATIONAL SECURITY COUNCIL

Salaries and Expenses

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $5,100,000. 5,100,000

OFFICE OF MANAGEMENT AND BUDGET

Salaries and Expenses

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by

5 U.S.C. 3109; $39,640,000, of which not to exceed $1,000,000 may be available for a consolidated Federal budget and financial information system to improve the management of Executive agencies, and of which not to exceed $4,500,000 shall be available to carry out the provisions of 44 U.S.C., chapter 35: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further,* That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further,* That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: *Provided further,* That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further,* That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 205, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder. $39,640,000

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $2,353,000. 2,353,000

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000. 1,000,000

EXPENSES OF MANAGEMENT IMPROVEMENT

For expenses necessary to provide a comprehensive office automation system, including equipment and software, for the Office of Management and Budget, $1,000,000, to remain available until expended. 1,000,000

This title may be cited as the "Executive Office Appropriations Act, 1989".

[*Total, title III, Executive Office of the President, new budget (obligational) authority, $108,310,000.*]

TITLE IV—INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Salaries and Expenses

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed $1,000 for official reception and representation expenses; $1,865,000. $1,865,000

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Salaries and Expenses

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended (42 U.S.C. 4271-79); $1,040,000, and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation. 1,040,000

ADVISORY COMMITTEE ON FEDERAL PAY

Salaries and Expenses

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $205,000: *Provided*, That the annual report of the Advisory Committee on Federal Pay shall be submitted to the Appropriations Committees of the House and Senate and other appropriate Committees of the Congress at the same time the report is submitted to the President. 205,000

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Salaries and Expenses

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, $862,000. 862,000

FEDERAL ELECTION COMMISSION

Salaries and Expenses

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $15,433,000. 15,433,000

GENERAL SERVICES ADMINISTRATION

Federal Buildings Fund

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space

adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $3,024,217,000, of which (1) not to exceed $119,820,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

$119,820,000 (limitation)

New Construction:

Connecticut:

Bridgeport, Federal Building, Courthouse Annex, $4,138,000

Hartford, Federal Building, Courthouse Annex, $6,612,000

Florida:

Lakeland, Federal Building, $14,000,000

Illinois:

Champaign-Urbana, Federal Building, Courthouse, $8,316,000

Louisiana:

Baton Rouge, Federal Building, Courthouse, to be constructed on a site donated by the City of Baton Rouge, $16,758,000

Michigan:

Detroit, Ambassador Bridge Cargo Inspection Facility, $10,197,000

Minnesota:

International Falls, Border Station, Site, $260,000

New Jersey:

Camden, U.S. Post Office, Courthouse Annex, $18,728,000

Newark, Martin Luther King, Jr., Federal Building, Site and Design (parking facility), $250,000

Paterson, Federal Building, $6,552,000

Trenton, Federal Building, Courthouse Annex, $25,939,000

New Mexico:

Albuquerque, Grant to the University of New Mexico, Zimmerman Library, Repair and Extension, $5,000,000

South Carolina:

Columbia, Federal Building and Courthouse Claim, $100,000

Virgin Islands:

St. Croix, Federal Building, Courthouse, $8,827,000

Construction Projects, less than $500,000, $2,470,000

Other selected purchases including options to purchase, $500,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1990, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That claims against the

Government of less than $100,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $532,865,000 which shall remain available until expended, for repairs and alterations: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

$532,865,000 (limitation)

Repairs and Alterations:

Alaska:

Juneau, Federal Building, Post Office, Courthouse, $24,700,000

Alabama:

Montgomery, Federal Building, Courthouse, $515,000

Arkansas:

Pine Bluff, Federal Building, Post Office, Courthouse, $2,084,000

California:

County of Los Angeles, for a grant for Senior Citizens Health Center renovation, $1,000,000

California State University at East Los Angeles for a grant to establish a center, $800,000

San Francisco, 450 Golden Gate Avenue, Federal Building, Courthouse, $5,000,000

Santa Ana, Federal Building, $1,406,000

San Diego, Federal Building, $1,742,000

District of Columbia:

Mary Switzer Federal Building, $502,000

Commerce Building, $2,457,000

Interstate Commerce Building, $526,000

Health and Human Services, $1,395,000

U.S. Customs Building, $754,000

Internal Revenue Service, $2,179,000

Housing and Urban Development, $1,221,000

Hubert H. Humphrey Federal Building, $606,000

Ariel Rios Federal Building, New Post Office, $29,000,000

GSA Headquarters, $11,000,000

James V. Forrestal Building, $19,970,000

Florida:

Jacksonville, Federal Building, $6,889,000

Miami, Federal Building, $1,415,000

Hawaii:

Honolulu, Kalanianole Federal Building, $5,680,000

Kentucky:

Louisville, Post Office, Courthouse, Customhouse, $9,435,000

Louisiana:

New Orleans, Boggs Federal Building, Courthouse, $10,245,000

New Orleans, Customhouse, $1,672,000

Maryland:

Avondale, Interior (Bureau of Mines), $6,500,000

Woodlawn, SSA Complex, $7,030,000

Baltimore, Garmatz Federal Building, Courthouse, $800,000

Suitland, Federal Building, #3, $1,926,000

Suitland, Federal Building, #4, $817,000

Baltimore, Fallon Federal Building, $6,901,000

Massachusetts:
Boston, John F. Kennedy Federal Building, $10,000,000
Boston, McCormack Federal Building, Courthouse, $3,000,000
Missouri:
Overland, Federal Archives and Records Center, $3,059,000
Mississippi:
Jackson, Eastland Post Office, Courthouse, $2,143,000
New Jersey:
Newark, Rodino Federal Building, $5,201,000
Trenton, Federal Building, Courthouse, $1,417,000
New Mexico:
Albuquerque, Chavez Federal Building, Courthouse, $3,207,000
Albuquerque, Federal Building, $1,967,000
New York:
Brooklyn, Cellar Federal Building, $16,000,000
Rochester, Keating Federal Building, $6,800,000
New York, United States Mission to the United Nations, $4,300,000
Ohio:
Cleveland, Celebrezze Federal Building, $5,836,000
Pennsylvania:
Philadelphia, Green Federal Building, $1,200,000
Philadelphia, SSA Computer Center, $950,000
South Carolina:
Charleston, Rivers Federal Building, $1,275,000
Tennessee:
Memphis, Davis Federal Building, $9,466,000
Texas:
Austin, Federal Building, $3,241,000
Austin, Internal Revenue Service Center, $3,282,000
Austin, Post Office, Courthouse, $7,995,000
Houston, Casey Federal Building, Courthouse, $8,008,000
Lubbock, Federal Building, Courthouse, $3,674,000
Utah:
Salt Lake City, Post Office, Courthouse, $2,543,000
Virginia:
McLean, Central Intelligence Agency, Headquarters, $2,336,000
McLean, Central Intelligence Agency Printing Plant, $746,000
Reston, J.W. Powell Federal Building, $1,336,000
Arlington, Heating Plant, $593,000
Richmond, Annex, $3,287,000
Vermont:
Burlington, Federal Building Post Office, Courthouse, $4,100,000
Wisconsin:
Milwaukee, Federal Building, Courthouse, $7,586,000

Capital Improvements of United States-Mexico Border Facilities, $42,150,000 as follows:
Arizona:
Douglas, AZ
New facility/R&A/Safety, $820,700
Lukeville, AZ
R&A/Safety, $229,100
Naco, AZ
New facility/R&A/Safety, $320,900

Nogalas, AZ
Grande Ave./Morley Gate, New Station/R&A/Safety, $2,420,900
Mariposa, R&A, $746,800
Sasebe, AZ
New facility/R&A/Safety, $355,300
San Luis, AZ
R&A/Safety, $499,300
California:
Andrade, CA
New station/R&A/Safety, $454,300
Calexico, CA
New station/R&A/Safety, $4,830,900
San Ysidro/Otay Mesa, CA
New facility/Otay Mesa, $721,700
Safety/San Ysidro/Otay Mesa, $2,673,900
R&A/Signs/Security/Commercial lot improvements, $4,956,200
Tecate, CA
New station/R&A, $861,800
New Mexico:
Antelope Wells, NM
Security/Housing, $158,500
Columbus, NM
Security, $236,300
Santa Teresa, NM
New station, $1,668,000
Texas:
Amastad Dam, TX
R&A, $83,400
Brownsville, TX
Gateway Bridge, Security/R&A/Lane expansion/New Bridge, $5,783,000
B&M Bridge, Replace station, $1,794,300
Los Indios, Replace station, $105,700
Del Rio, TX
Security/Lane expansion, $597,700
Eagle Pass, TX
Security/R&A, $2,251,800
El Paso, TX
Bridge of the Americas, Design/R&A/Import Lot Paving, $1,700,300
Paso del Norte, Extension/R&A, $639,400
Ysleta, Design/Construction, $1,501,200
Fabens, TX
Site acquisition/Security, $444,800
Falcon Dam, TX
R&A, $172,400
Hidalgo, TX
Safety/Design/R&A, $617,200
Laredo, TX
Juarez-Lincoln Bridge, Site/Design/R&A, $1,668,000
New bridge, $278,000
Convent Street, Design upgrade, $1,473,400
Presidio, TX
Security/Housing, $556,000
Progresso, TX
Security/R&A, $222,400
Roma, TX
Safety, $305,800

Minor Repairs and Alterations, $200,000,000, of which up to $2,000,000 shall be made available to fund a pilot project establishing safe areas-of-refuge from fire for the disabled in six existing

Federal buildings in the United States: *Provided,* That by no later than July 30, 1989, the Administrator of General Services shall assess the level of unobligated balances, if any, in the Federal Buildings Fund and request reprogramming of such balances, not to exceed $10,000,000, to provide additional funding for United States-Mexico Border Facility projects: *Provided further,* That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1990, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $133,000,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $1,177,532,000 for rental of space; (5) not to exceed $882,000,000 for real property operations; (6) not to exceed $49,000,000 for program direction and centralized services; and (7) not to exceed $130,000,000, of which $2,200,000 shall be made available for a grant to the Marine Biological Laboratory at Woods Hole, Massachusetts and of which $127,800,000 shall be available for design and construction services which shall remain available until expended: *Provided further,* That obligations of funds for lease, lease purchase, or installment purchase public buildings projects authorized in Public Law 100–202 for the General Services Administration at Oakland, California and San Francisco, California, and for the Environmental Protection Agency and Department of Transportation shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1341(a)(1)(B): *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That none of the funds available to the General Services Administration with the exception of those for Capital Improvements for United States-Mexico Border Facilities; Memphis, Tennessee, Internal Revenue Service Center; Avondale, Maryland, Interior Department (Bureau of Mines); Baton Rouge, Louisiana, Federal Building/Courthouse; and Lakeland, Florida, Federal Building, shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided*

[1] *$133,000,000*

[1] *1,177,532,000*

[1] *882,000,000*

[1] *49,000,000*

[1] *130,000,000*

[1] (Limitation.)

further, That revenues and collections and any other sums accruing to this Fund during fiscal year 1989 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $3,024,217,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts.

[*Total, Federal Buildings Fund (limitations), $3,024,217,000.*]

Federal Supply Service

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities, including services as authorized by 5 U.S.C. 3109; $47,000,000. $47,000,000

Federal Property Resources Service

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; $10,800,000 to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–5). 10,800,000

Real Property Relocation

For expenses not otherwise provided for, $4,000,000 to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided,* That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further,* That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property: 4,000,000

Provided further, That notwithstanding any provision of this or any other Act, not more than $1,500,000 of the appropriations made available under the heading "Real Property Relocation" by this Act or by Public Law 100-202, shall be available to pay for the relocation costs associated with the facility at Loran Station, Makahuena Point, Island of Kauai, Hawaii: *Provided further,* That upon relocation, such property shall be sold by the Administrator of General Services at not less than the estimated fair market value through a competitive public sale.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $122,774,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: *Provided,* That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code. [1] $120,774,000

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $31,875,000. 31,875,000

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General; $25,000,000: *Provided,* That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property. 25,000,000

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,431,000: *Provided,* That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts. 1,431,000

EXPENSES, PRESIDENTIAL TRANSITION

For expenses necessary to carry out the provisions of the Presidential Transition Act of 1963, as amended (3 U.S.C. 102, note), $3,000,000: *Provided,* That the availability of these funds shall be in accordance with sections 3(b) and 4 of the Act. 3,000,000

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[1] Reflects amount in general provisions, sec. 15 (p. 447, this volume).

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

For the fiscal year ending September 30, 1989, in addition to the funds previously appropriated to the National Defense Stockpile Transaction Fund, notwithstanding the provisions of 50 U.S.C. 98h, there is hereby appropriated $30,000,000 to the Fund, to remain available until expended, the amounts to be allocated for the following projects: $30,000,000

University of Texas at El Paso pursuant to 50 U.S.C. 98 a and g for a grant to study and facilitate the development, transfer, and installation of strategic materials technologies among American industries, $3,000,000;

University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a strategic materials research facility, $14,000,000;

Loyola College in Maryland pursuant to 50 U.S.C. 98a and 98g(a), for a grant to pay the Federal share of the cost of construction and equipment, including approaches and appurtenances and costs already incurred, of a Center for Advanced Information and Resource Management Studies, $3,000,000;

University of Idaho pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a Strategic Research and Environmental Laboratory, $3,000,000; and

University of Utah pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Biomedical Polymers, $7,000,000.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1989 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 5. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.

SEC. 6. The Administrator of General Services shall proceed with the site selection and design for construction of a facility of not less than 182,000 usable square feet for the Social Security Administration in Wilkes-Barre, Pennsylvania, pursuant to section 115 of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1987 and for other purposes", approved October 30, 1986 (100 Stat. 3341-49; Public Law 99-591).

SEC. 7. Notwithstanding any provisions of this Act or any other Act in any fiscal year, the Administrator of General Services is authorized and directed to charge the Department of the Interior for design and alterations to the Avondale, Maryland property at rates so as to recover the approximate applicable cost incurred by General Services Administration in providing such alterations, and the Department of the Interior is authorized to repay such charges out of any appropriation available to the department and the payments shall be deposited in the fund established by 40 U.S.C. 490(f).

SEC. 8. (a) LEASE-PURCHASE AGREEMENT.—The Administrator of General Services shall acquire from the State of Tennessee or a political subdivision thereof by lease-purchase a building to house the Internal Revenue Service Center in Memphis, Tennessee, and such other Federal agencies as may be appropriate.

(b) LIMITATIONS.—

(1) SIZE.—The building to be acquired under subsection (a) may not exceed 600,000 gross square feet in size plus such additional space as may be necessary for parking.

(2) COST.—The total cost of the lease-purchase agreement under this section to the United States may not exceed $36,000,000, plus reasonable interest thereon, as well as operating costs, if applicable.

(3) TERM.—The term of the lease-purchase agreement under this section may not exceed thirty years. The agreement shall provide that ownership of the building will vest in the United States on or before the end of such term.

(4) OBLIGATION OF FUNDS.—Obligations of funds under this section shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code.

(c) SALE OF LEASEHOLD INTEREST.—The Administrator of General Services shall sell any leasehold or other interest which the United States has in the building which is providing office space for the Internal Revenue Service Center in Memphis, Tennessee, and shall deposit the proceeds from such sale in the Federal Buildings Fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949.

SEC. 9. The General Services Administration is directed to construct under their lease-purchase authority, a 40,000 net square foot office building at the CDC campus in Chamblee, Georgia, designed with funds which Congress provided the Center for Disease Control in the fiscal year 1987 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations, and shall be acquired without regard to the provisions of the Public Buildings Act of 1959 regarding prospectus approval by lease-purchase contracts entered into by the General Services Administration prior to their construction using funds appropriated annually to the General Services Administration from the Federal Buildings Fund for the rental of space which shall hereafter be available for this purpose. The contracts shall provide for the payment of the purchase price and reasonable interest thereon by lease or installment payments over a period not to exceed thirty years. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. The Federal Buildings Fund shall be reimbursed from the annual appropriation to the Centers for Disease Control—Disease Control, Research, and Training (or any other appropriation hereafter made available to the CDC for construction of research facilities) and such appropriations shall hereafter be available for the purpose of reimbursing the

Federal Buildings Fund. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1502 and 1341(a)(1)(B).

SEC. 10. The Administrator of General Services is authorized and directed to hire up to and maintain an annual average of not less than one thousand full-time equivalent positions for Federal Protective Officers. This shall be accomplished by increasing existing staff levels at the end of fiscal year 1988 at a rate of not less than fifty positions per year until the full-time equivalency of one thousand is attained by not later than fiscal year 1992.

SEC. 11. Notwithstanding any other provision of law, the Administrator of General Services is hereafter authorized to transfer from the available resources of the Federal Buildings Fund, in accordance with such rules and procedures as may be established by the Office of Management and Budget and the Department of the Treasury, such amounts as are necessary to repay the principal amount of General Services Administration borrowings from the Federal Financing Bank when such borrowings are legal obligations of the Fund.

SEC. 12. Notwithstanding any other provision of law, the General Services Administration is hereby authorized to sell, at competitive bid, the Federal Building located at 124 South Tennessee Avenue in Lakeland, Florida, and to deposit such proceeds into the Federal Buildings Fund.

SEC. 13. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 14. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfork Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 15. Notwithstanding any other provision of this Act the amount appropriated for "General Management and Administration, Salaries and Expenses" of the General Services Administration is $120,774,000 for fiscal year 1989. [1] ($120,774,000)

SEC. 16. The Administrator of General Services shall transfer, without consideration, to the Secretary of the Army the approximately twenty-four acres located in Laurel, Maryland, and classified as surplus property under the title "FDA—Beltsville Research Facility". Such property shall be used in connection with the Maryland National Guard.

SEC. 17. The Secretary of the Interior, within thirty days of enactment of this Act shall designate a consolidated agency of no less than four hundred people within the Department of the Interior for relocation to Avondale, Maryland. The Administrator of General Services shall relocate the designee to the Avondale facility no later than ninety days after the Administrator determines design and alteration of the facility is completed.

SEC. 18. Notwithstanding any other provision of this Act, no funds made available from the Federal Buildings Fund for new construction for fiscal year 1989 may be used to fund the St. Croix Federal Building, Courthouse located in the Virgin Islands.

SEC. 19. None of the funds appropriated by this or any other Act in any fiscal year may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing, or disposal

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[1] Alters amount for this account (p. 444, this volume).

of any portion of land identified as a portion of the Middle River Federal Depot located in Baltimore County, Maryland before October 1, 1989: *Provided,* That such land may be sold before that time if the General Services Administration enters into a mutually agreed upon sale agreement with the State of Maryland and/or Baltimore County, Maryland.

[*Total, General Services Administration, $273,880,000.*]

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $121,900,000, of which $125,000 shall be made available directly to the Forbes Library, Northampton, Massachusetts for such expenses as are necessary for the proper preservation, restoration, and display of the Presidential papers of Calvin Coolidge, and of which $4,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended, and of which $4,100,000 shall remain available until expended for continuation of construction at the John F. Kennedy Library in Boston, Massachusetts: *Provided,* That notwithstanding the provisions of 31 U.S.C. 1341(a)(1) or any other provisions of law, the Archivist of the United States is authorized, pursuant to 44 U.S.C. 2903, to enter into a contract for construction and related services for a new National Archives facility in Prince George's County, Maryland, on a site provided, without charge, to the United States by the University of Maryland or the State of Maryland, which site may be transferred to the United States by less than fee simple estate, but shall remain available to the United States so long as it shall be used as a National Archives facility. The contract shall provide, by lease or installment payments payable out of annual appropriations over a period not to exceed thirty years, for the payment of the purchase price and associated costs, which shall not exceed $205,000,000 plus escalation to the midpoint of construction, and reasonable interest thereon. The contract shall further provide that title to the building shall vest in the United States at or before the expiration of the contract term upon fulfillment of the terms and conditions of the contract. $121,900,000

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; $108,000,000, of which $170,000 shall be for the salaries, administrative support and for other expenses of the Commission on Executive, Legislative and 108,000,000

Judicial Salaries; not to exceed $1,000,000 may be made available for establishment of Federal health promotion and disease prevention programs for Federal employees; and not to exceed $500,000 may be made available for implementation of the Combined Federal Campaign in fiscal year 1989; in addition to $77,017,000 for administrative expenses, including direct procurement of health benefits printing, for the retirement and insurance programs, of which $7,000,000 shall be for costs incurred in implementing the record-keeping system of the Federal Employees Retirement System, to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1989, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

$77,017,000 (limitation on administrative expenses)

REVOLVING FUND

Pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $2,374,414,000, to remain available until expended. 2,374,414,000

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $4,858,668,000: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771-75), may hereafter be paid out of the Civil Service Retirement and Disability Fund. 4,858,668,000

[*Total, Office of Personnel Management, $7,341,082,000.*]

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including

services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; $20,488,000, together with not to exceed $1,400,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board. $20,488,000
1,400,000 (limitation on administrative expenses)

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $5,000,000. 5,000,000

[*Total, Merit Systems Protection Board, $25,488,000.*]

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $17,540,000: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109. 17,540,000

[*Total, Federal Personnel Activities, $7,384,110,000.*]

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $29,345,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge; and in addition, $1,225,000 shall be available only for installation of a chiller/air conditioning system in the United States Tax Court Headquarters Building in the District of Columbia, to remain available until expended. 29,345,000

This title may be cited as the "Independent Agencies Appropriations Act, 1989".

[*Total, title IV, Independent Agencies:*
[*New budget (obligational) authority ..... $7,828,640,000.*]
[*Limitations ..... 3,102,634,000.*]

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates

submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans' Administration; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided,* That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided,* That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits, and malt beverages, except if the expenditure of such funds, is necessary to comply with a final order of the Federal court system.

SEC. 509. None of the funds appropriated or made available by this Act shall be used to competitively procure electric utility service, except where such procurement is expressly authorized by the Federal Power Act or by State law or regulation.

SEC. 509A. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.

SEC. 510. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 511. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 512. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, and Marana, Arizona, out of the Treasury Department.

SEC. 513. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 514. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 515. Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than twenty-two miles per gallon. The requirements

of this section may be waived by the Administrator of the General Services Administration for special purposes or special mission automobiles.

SEC. 516. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 517. The provision of section 516 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 518. No later than October 1, 1989, the Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all funds authorized and appropriated before January 1, 1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 519. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 520. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

SEC. 521. Not later than October 1, 1989, of the amounts obtained from the sale, transfer, or disposition of silver from the National Defense Stockpile, not less than $1,000,000 shall be obligated for a pilot project to upgrade cobalt deposited in the National Defense Stockpile to the highest purity levels required for critical military applications. The funds used in this section for upgrading shall not exceed $2,000,000.

SEC. 522. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, may acquire, by means of a lease of up to thirty years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 523. Funds under this Act shall be available as authorized by sections 4501-4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1989.

SEC. 524. (a) Notwithstanding any other provision of law, during fiscal year 1989, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, United States Code, be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, United States Code, be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstances are significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1989 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, United States Code—

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1989, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 525. None of the funds available in this Act may be used to contract out positions or downgrade the position classification of the Bureau of Engraving and Printing Police Force.

SEC. 526. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 527. (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 per centum of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) The term "consulting services" shall be defined consistent with the provision of OMB Circular A–120 dated January 4, 1988.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the 4.1 per centum increase in rates of pay in such department, agency, or instumentality made under this Act.

SEC. 528. Section 509 of this Act shall have no force or effect.

SEC. 529. The Office of Personnel Management may, during the fiscal year ending September 30, 1989, accept donations of supplies and equipment for the Federal Executive Institute for the enhancement of the morale and educational experience of attendees at the Institute.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SECTION 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,600 except station wagons for which the maximum shall be $7,600: *Provided,* That these limits may be exceeded by not to exceed $2,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section shall not apply to electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-24.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Building Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c): *Provided,* That when the Administrator of General Services delegates responsibility to protect property under this charge and con-

trol to the head of another Federal agency, that agency may employ guards to protect the property who shall have the same powers of special policemen in same manner as the foregoing.

SEC. 610. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 611. No part of any appropriation contained in, or funds made available by, this or any other Act shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

SEC. 612. (a)(1) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1989, or September 30, 1990, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 613 of the Treasury, Postal Service, and General Government Appropriations Act, 1988, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder, if any, of fiscal year 1989, and that portion of fiscal year 1990, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1990, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1989.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1988, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1988, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1988.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or

any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate or salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 613. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such renovation, remodeling, furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 615. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 616. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 617. (a) None of the funds made available by this or any other Act with respect to any fiscal year may be used to make a contract for the manufacture of distinctive paper for United States currency and securities pursuant to section 5114 of title 31, United States Code, with any corporation or other entity owned or controlled by persons not citizens of the United States, or for the manufacture of such distinctive paper outside of the United States or its possessions. This subsection shall not apply if the Secretary of the Treasury determines that no domestic manufacturer of distinctive paper for United States currency or securities exists with which to make a contract and if the Secretary of the Treasury publishes in the Federal Register a written finding stating the basis for the determination.

(b) None of the funds made available by this or any other Act with respect to any fiscal year may be used to procure paper for passports granted or issued pursuant to the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), if such paper is manufactured outside of the United States or its possessions or is procured from any corporation or other entity owned or controlled by persons not citizens of the United States. This subsection shall not apply if no domestic manufacturer for passport paper exists.

SEC. 618. TEMPORARY AUTHORITY TO TRANSFER LEAVE.—In order to ensure that the experimental use of voluntary leave transfers established under Public Laws 99-500, 99-591, and 100-202 may continue and may cover additional employees in fiscal year 1989, the Office of Personnel Management may continue to operate by regulation, notwithstanding chapter 63 of title 5, United States Code, a program under which the unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency as defined in the regulations. The Office may provide by regulation for such exceptions from the provisions of section 7351 of title 5 as the Office may determine appropriate for the transfer of leave under this section. The Veterans' Administration may operate a similar program for employees subject to section 4108 of title 38, United States Code. The programs operated under this section shall expire at the end of fiscal year 1989, but any leave that has been transferred to an officer or employee under the programs shall remain available for use until the personal emergency has ended, and any remaining unused transferred leave shall, to the extent administratively feasible, be restored to the leave accounts of the officers or employees from whose accounts it was originally transferred.

EMPLOYEE DISCLOSURE AGREEMENTS

SEC. 619. No funds appropriated in this or any other Act for fiscal year 1989 may be used to implement or enforce the agreements in Standard Forms 189 and 4193 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement:

(1) concerns information other than that specifically marked as classified; or, unmarked but known by the employee to be classified; or, unclassified but known by the employee to be in the process of a classification determination;

(2) contains the term classifiable;

(3) directly or indirectly obstructs, by requirement of prior written authorization, limitation of authorized disclosure, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;

(4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of the Congress;

(5) imposes any obligations or invokes any remedies inconsistent with statutory law:

Provided, That nothing in this section shall affect the enforcement of those aspects of such nondisclosure policy, form or agreement that do not fall within subsection (1)–(5) of this section.

SEC. 620. (a)(1) Notwithstanding any other provision of law, in the case of fiscal year 1989, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 4.1 percent.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1989.

(b)(1) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1988, and before October 1, 1989, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

(A) if the rate of salary or basic pay payable for that office or position as of September 30, 1988, was equal to or greater than the rate of basic pay then payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; or

(B) to a rate exceeding the rate of basic pay payable for level III of the Executive Schedule under such section 5314 as of September 30, 1988, if, as of that date, the rate of salary or basic pay payable for that office or position was less than the rate of basic pay then payable for such level III.

(2) For purposes of paragraph (1), the rate of salary or basic pay payable as of September 30, 1988, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(B) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

SEC. 621. Effective October 1, 1988, the Secretary shall sell, within fiscal year 1989, two million five hundred thousand fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act.

SEC. 622. Effective October 1, 1989, the Secretary shall sell, within fiscal year 1990, two million five hundred thousand fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act.

SEC. 623. Effective October 1, 1990, the Secretary shall sell, within fiscal year 1991, two million five hundred thousand fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act.

SEC. 624. The Secretary of the Treasury may reduce the amount of silver required to be sold pursuant to this Act if he makes a written determination to the Congress that such a sale will severely disrupt the domestic market for silver.

SEC. 625. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

SEC. 626. Employees currently performing stockpile management and related functions in the Federal Property Resources Service, General Services Administration, pursuant to the Strategic and Critical Materials Stockpiling Act shall continue to perform these functions notwithstanding enactment of any amendments to this Act placing the direct functional responsibilities in another Federal department or agency. Any of these employees transferred from the Federal Property Resources Service, General Services Administration, to another Federal department or agency pursuant to law shall not be subject to agency reduction-in-force procedures nor shall they be reduced in classification or compensation for two years after such transfer, except for cause. A formal plan implementing these provisions shall be submitted to the House and Senate Committees on Appropriations by the recipient agency prior to any actual transfer that may be mandated.

SEC. 627. None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 89-306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and services procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

SEC. 628. (a) No department, agency, or instrumentality of the United States receiving appropriated funds under this Act for fiscal year 1989, or under any other Act appropriating funds for fiscal year 1989, shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

(b) No funds so appropriated to any such department, agency, or instrumentality shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the head of the department, agency, or instrumentality making such payment, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or

distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

SEC. 629. (a) Section 5724(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) upon the separation of a career appointee (as defined in section 3132(a)(4) of this title), the travel expenses of that individual, the transportation expenses of the immediate family of such individual, and the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods of such individual and personal effects not in excess of eighteen thousand pounds net weight, to the place where the individual will reside within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as described in section 3(a) of the Panama Canal Act of 1979 (or, if the individual dies before the travel, transportation, and moving is completed, to the place where the family will reside) if such individual—

"(A) during the five years preceding eligibility to receive an annuity under subchapter III of chapter 83, or of chapter 84 of this title, and thereafter, has been transferred in the interest of the Government from one official station to another for permanent duty as a career appointee in the Senior Executive Service; and

"(B) is eligible to receive an annuity upon such separation under the provisions of subchapter III of chapter 83 or chapter 84 of this title.".

(b) The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums otherwise authorized to be appropriated for such agencies.

SEC. 630. Notwithstanding any other provision of law, Public Law 89-784, 80 Stat. 1367 and Public Law 90-469, 82 Stat. 666 pertaining to the naming, maintaining and operating of the William Langer Jewel Bearing Plant are amended by striking out all references to the "General Services Administration", "the Administrator of the General Services" and "Administrator" and inserting in lieu thereof "the National Defense Stockpile Manager".

SEC. 631. For purposes of section 1886 of the Social Security Act, Missouri Baptist Hospital of Sullivan in Sullivan, Missouri is deemed to be located in Franklin County, Missouri, retroactively effective for discharges beginning on or after December 22, 1987.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1989".

Approved September 22, 1988.

LEGISLATIVE HISTORY—H.R. 4775

HOUSE REPORTS: No. 100-679 (Comm. on Appropriations) and No. 100-881 (Comm. of Conference).
SENATE REPORT No. 100-387 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 9, reported in the House.
June 14, considered and passed House.
June 17, reported in the Senate.
June 22, 24, and 27, considered and passed Senate, amended.
Aug. 12, conference report filed in the House.
Sept. 7, House agreed to conference report; receded and concurred in certain Senate amendments and in others with amendments.
Sept. 8, Senate agree to conference report; agreed to House amendments.

Grand total:		
Title I, Treasury Department	$7,646,543,000	
Title II, Postal Service	436,417,000	
Title III, Executive Office of the President	108,310,000	
Title IV, Independent Agencies	7,828,640,000	
Limitations	*(3,102,634,000)*	
Total, new budget (obligational) authority, Treasury, Postal Service, and General Government Appropriations Act, 1989		$16,019,910,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1989 contained in the foregoing annual appropriations act, the following additional amounts are available for the Department of the Treasury, Postal Service, and General Government for the fiscal year:

Permanent appropriations:	
Federal funds (pp. 2225, 2231-2234)	$247,045,125,000
Trust funds (pp. 2243, 2246, 2248-2251)	59,409,592,000
Private appropriation acts (p. 2219)	499,151
Appropriations in legislative acts:	
Customs Forfeiture Fund, Federal funds (P.L. 100-690) (p. 2352)	15,000,000
General Post Fund, National Homes, trust funds (P.L. 100-322) (p. 2353)	−6,000,000
Railroad Industry Pension Fund, trust funds (P.L. 100-647) (p. 2353)	−1,000,000
Advance appropriations for fiscal year 1989 made during previous session of Congress:	
99th Cong., 2d session:	
Corporation for Public Broadcasting (p. 119, 1986-1987 volume)	[1] *(228,000,000)*
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989:	
Arms Control and Disarmament Agency (p. 43)	31,030,000
Board for International Broadcasting (p. 43)	227,900,000
Christopher Columbus Quincentenary Jubilee Commission (pp. 43-44)	212,000
Commission on Agriculture Workers (p. 44)	500,000
Commission on the Bicentennial of the United States Constitution (p. 44)	6,936,000
Commission on Civil Rights (p. 44)	5,707,000
Commission on Security and Cooperation in Europe (p. 44)	741,000
Commission for the Study of International Migration and Cooperative Economic Development (p. 45)	1,290,000
Equal Employment Opportunity Commission (p. 45)	180,712,000
Federal Communications Commission (pp. 45-46)	100,355,000
Federal Maritime Commission (p. 46)	13,585,000
Federal Trade Commission (p. 46)	66,243,000
International Trade Commission (p. 46)	35,958,000
Japan-United States Friendship Commission (pp. 46-47)	1,415,000
Legal Services Corporation (p. 47)	308,555,000
Marine Mammal Commission (p. 47)	953,000
Office of the United States Trade Representative (p. 47)	15,229,000
Securities and Exchange Commission (p. 47)	142,640,000
Small Business Administration (pp. 47-49)	419,143,000
State Justice Institute (p. 49)	10,980,000
United States Information Agency (pp. 49-51)	882,362,000
United States Sentencing Commission (p. 41)	5,183,000
Department of Defense Appropriations Act, 1989:	
Central Intelligence Agency Retirement and Disability System Fund (p. 74)	144,500,000
Intelligence Community Staff (p. 74)	23,645,000

[1] Also included under "Permanent appropriations, Federal funds".

Energy and Water Development Appropriations Act, 1989:	
Appalachian Regional Commission (p. 149)	$110,700,000
Delaware River Basin Commission (p. 149)	468,000
Interstate Commission on the Potomac River Basin (pp. 149-150)	379,000
Nuclear Regulatory Commission (p. 150)	231,000,000
Susquehanna River Basin Commission (p. 150)	454,000
Tennessee Valley Authority (p. 151)	103,000,000
Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989:	
American Battle Monuments Commission (p. 214)	15,085,000
Consumer Products Safety Commission (p. 214)	34,500,000
Environmental Protection Agency (pp. 215-216)	5,155,125,000
Executive Office of the President (pp. 216-217)	2,437,000
Federal Emergency Management Agency (pp. 217-218)	633,712,000
General Services Administration—Consumer Information Center (p. 218)	1,354,000
National Aeronautics and Space Administration (pp. 218-221)	10,676,000,000
National Science Foundation (pp. 221-222)	1,885,000,000
Neighborhood Reinvestment Corporation (p. 223)	19,494,000
Selective Service System (p. 223)	26,313,000
Veterans Administration (pp. 223-227)	28,151,068,000
Department of the Interior and Related Agencies Appropriations Act, 1989:	
Advisory Council on Historic Preservation (p. 277)	1,778,000
Commission of Fine Arts (p. 277)	475,000
Franklin Delano Roosevelt Memorial Commission (pp. 277-278)	28,000
Institute of American Indian and Alaska Native Culture and Arts Development (pp. 273-274)	3,094,000
National Capital Arts and Cultural Affairs (p. 277)	5,000,000
National Capital Planning Commission (p. 277)	2,962,000
National Foundation on the Arts and the Humanities (pp. 276-277)	344,360,000
Navajo and Hopi Relocation Commission (p. 273)	27,373,000
Pennsylvania Avenue Development Corporation (p. 278)	5,509,000
Smithsonian Institution (pp. 274-276)	289,206,000
United States Holocaust Memorial Council (p. 278)	2,244,000
Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989:	
Action (p. 313)	168,420,000
Commission on Railroad Retirement Reform (p. 313)	988,000
Corporation for Public Broadcasting $298,870,000 for fiscal year 1991 (p. 313)	
Federal Mediation and Conciliation Service (p. 313)	25,813,000
Federal Mine Safety and Health Review Commission (p. 313)	4,030,000
National Commission on Children (p. 314)	790,000
National Commission on Libraries and Information Science (p. 314)	741,000
National Commission on Migrant Education (p. 314)	1,976,000
National Commission on Responsibilities for Financing Post-secondary Education (p. 314)	790,000
National Commission to Prevent Infant Mortality (p. 314)	494,000
National Council on the Handicapped (p. 314)	1,160,000
National Labor Relations Board (pp. 314-315)	136,983,000
National Mediation Board (p. 315)	6,472,000
Occupational Safety and Health Review Commission (p. 315)	5,845,000
Railroad Retirement Board:	
Dual benefits payments account (p. 315)	322,740,000
Federal payments to the Railroad Retirement Accounts (p. 315)	3,100,000
United States Bipartisan Commission on Comprehensive Health Care (p. 316)	1,033,000
United States Institute of Peace (p. 317)	6,916,000
Legislative Branch Appropriations Act, 1989:	
General Services Administration (p. 346)	2,000,000
Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989:	
Commodity Futures Trading Commission (p. 385)	34,723,000
Department of the Treasury (p. 385)	175,000,000
Department of Transportation and Related Agencies Appropriations Act, 1989:	
Architectural and Transportation Barriers Compliance Board (p. 413)	1,891,000
Interstate Commerce Commission (p. 413)	43,115,000
National Transportation Safety Board (p. 413)	25,360,000
Washington Metropolitan Area Transit Authority (p. 414)	51,663,569
Department of the Treasury: Rebate of Saint Lawrence Seaway Tolls (Harbor Maintenance Trust Fund) (p. 414)	10,700,000

Urgent Supplemental Appropriations Act of 1989 To Meet the Dire Emergency Created by the Crisis of Drug Abuse (P.L. 100–690):		
Action (p. 470)	$2,000,000	
Department of the Treasury:		
Bureau of Alcohol, Tobacco and Firearms (p. 471)	7,000,000	
United States Customs Service (p. 471)	15,500,000	
Office of National Drug Control Policy (p. 472)	3,500,000	
Subtotal, additions (net)		$357,877,851,720
Grand total, Treasury, Postal Service, and General Government (net)		373,897,761,720

URGENT SUPPLEMENTAL APPROPRIATIONS ACT OF 1989 TO MEET THE DIRE EMERGENCY CREATED BY THE CRISIS OF DRUG ABUSE

Public Law 100-690

100th Congress, H.R. 5210

November 18, 1988

[Note.—The following is the text of the Supplemental Appropriations Act to fund the War on Drugs which was enacted as Title X of H.R. 5210—The Anti-Drug Abuse Act of 1988, P.L. 100-690.]

AN ACT

To prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1988".

* * * * * * *

TITLE X—SUPPLEMENTAL APPROPRIATIONS

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1989, and for other purposes, namely:

In view of the urgent necessity to provide additional funding for treatment and rehabilitation for drug users and for law enforcement, there is hereby appropriated an additional sum of $991,400,000 to implement the agreement on H.R. 5210, the Anti-Drug Abuse Act of 1988. Such sums are in addition to the $4,271,000,000 heretofore appropriated and made available October 1, 1988.

CHAPTER I

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for "Salaries and expenses, general legal activities", $1,800,000, notwithstanding any designations contained in other titles of this Act: *Provided*, That of the amount appropriated, $800,000 shall be made available to INTERPOL-United States National Central Bureau and $1,000,000 shall be made available for Organized Crime Drug Enforcement and for asset forfeiture and civil enforcement actions leading to the forfeiture of seized assets. $1,800,000

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for "Salaries and expenses, United States attorneys", $39,000,000, notwithstanding any designations contained in other titles of this Act: *Provided*, That of the amount appropriated, $22,000,000 shall be for asset forfeiture and civil enforcement actions leading to the forfeiture of seized assets. $39,000,000

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and expenses, United States Marshals Service", $16,400,000, notwithstanding any designations contained in other titles of this Act. 16,400,000

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States Prisoners", $16,400,000, to remain available until expended, notwithstanding any designations contained in other titles of this Act: *Provided*, That of the amount appropriated, not to exceed $4,100,000 shall be for the Cooperative Agreement Program. 16,400,000

ASSETS FORFEITURE FUND

For expenses necessary to carry out the programs authorized in the Omnibus Drug Initiative Act of 1988, $30,000,000, to be derived from receipts collected pursuant to 28 U.S.C. 524, as amended, shall be transferred to "Legal Activities, Salaries and Expenses, United States Attorneys". 30,000,000

[*Total, Legal Activities, $103,600,000.*]

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $15,000,000, notwithstanding any designations contained in other titles of this Act. 15,000,000

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $30,000,000, notwithstanding any designations contained in other titles of this Act. 30,000,000

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $26,200,000, notwithstanding any designations contained in other titles of this Act. 26,200,000

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities", $95,600,000, to remain available until expended, notwithstanding any designations contained in other titles of this Act. 95,600,000

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount for "Justice assistance" for the Drug Control and System Improvement Grant program and the Public

Safety Officers Benefits program as authorized by the Anti-Drug Abuse Act of 1988, and salaries and expenses for administration of such programs, $90,000,000, to remain available until expended, notwithstanding any designations contained in other titles of this Act. $90,000,000

[Total, Department of Justice, $360,400,000.]

DEPARTMENT OF STATE

Administration of Foreign Affairs

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,000,000, to remain available until expended, for expenses authorized by the Anti-Drug Abuse Act of 1988 for development, procurement, and implementation of a machine-readable travel and identity document border security program. 5,000,000

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, as amended, the funds made available under this heading in Public Law 99-88 for the purposes stated therein, shall also be available for rewards for information concerning narcotics-related offenses as described in section 36(b)(1) and authorized by section 36(g) of the State Department Basic Authorities Act of 1956, as amended, and such funds shall remain available until expended.

THE JUDICIARY

Courts of Appeals, District Courts, and Other Judicial Services

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $35,000,000. 35,000,000

DEFENDER SERVICES

For an additional amount as authorized by law for "Defender services", $15,000,000, to remain available until expended. 15,000,000

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of jurors and commissioners", $1,000,000, to remain available until expended. 1,000,000

[Total, the Judiciary, $51,000,000.]

[Total, Chapter I, $416,400,000.]

CHAPTER II

DEPARTMENT OF LABOR

Departmental Management

SALARIES AND EXPENSES

For an additional amount for substance abuse employee assistance programs in the workplace, $2,000,000. 2,000,000

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse and Mental Health Administration

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH

For an additional amount for substance abuse prevention and treatment activities as authorized by the Anti-Drug Abuse Act of 1988, $283,000,000. 283,000,000

FAMILY SUPPORT ADMINISTRATION

COMMUNITY SERVICES BLOCK GRANT

NATIONAL YOUTH SPORTS PROGRAM

For an additional amount for substance abuse prevention and treatment activities as authorized by the Anti-Drug Abuse Act of 1988, $3,000,000. $3,000,000

HUMAN DEVELOPMENT SERVICES

For an additional amount for substance abuse prevention and treatment activities as authorized by the Anti-Drug Abuse Act of 1988, $30,000,000, of which $15,000,000 is for drug education and prevention relating to youth gangs, and $15,000,000 is for runaway and homeless youth. 30,000,000

[*Total, Department of Health and Human Services, $316,000,000.*]

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

For an additional amount to carry out the Drug-Free Schools and Communities Act of 1986, as amended, $108,000,000, of which $7,000,000 is provided to carry out part C, $100,500,000 is provided to carry out programs in accordance with the funding requirements of section 5112, and $500,000 shall be transferred to the Program Administration account, Department of Education, for the salaries and related expenses of carrying out said Act: *Provided*, That $83,214,000 for part B shall become available on July 1, 1989, and shall remain available until September 30, 1990. 108,000,000

RELATED AGENCY

ACTION

OPERATING EXPENSES

For an additional amount for substance abuse prevention and education activities as authorized by the Domestic Volunteer Service Act of 1973, $2,000,000, of which up to $200,000 may be used for administrative expenses. 2,000,000

[*Total, Chapter II, $428,000,000.*]

CHAPTER III

DEPARTMENT OF AGRICULTURE

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For fiscal year 1989, not to exceed $10,000,000 of the funds appropriated pursuant to section 17(g)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(1)) may be used for purposes of preparing and distributing drug abuse education materials and to carry out the study described in section 17(g)(4) of the Child Nutrition Act of 1966, as authorized by the Anti-Drug Abuse Act of 1988.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for the Food and Drug Administration, $5,000,000. 5,000,000

CHAPTER IV

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $16,000,000 to be available only to increase drug interdiction patrols and other special drug interdiction operations above the level otherwise programmed to be performed in fiscal year 1989 with funds made available by the Department of Transportation and Related Agencies Appropriations Act, 1989, and the Department of Defense Appropriations Act, 1989: *Provided*, That such funds shall be available only for fuel, maintenance, spare parts, supplies and materials, and related logistics expenses: *Provided further*, That the Secretary of Transportation shall submit a confidential report to Congress no later than 30 days after enactment describing the Coast Guard's planned fiscal year 1989 drug interdiction level of effort using funds made available in regular appropriations Acts compared to the level of effort to be achieved with the additional funds made available by this Act. $16,000,000

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Notwithstanding any other provision of law or this Act, for an additional amount for "Acquisition, construction, and improvements", $100,000,000 to remain available until expended, of which $52,000,000 shall be available to accelerate phase IV of the ongoing program for the acquisition of 32 HH-60 medium range recovery helicopters, $31,000,000 shall be available for the cutter fleet renovation and modernization program, and $17,000,000 shall be available for the installation of an APS-125 or APS-138 radar system on an existing Coast Guard long range surveillance aircraft. 100,000,000

[*Total, Chapter IV, Department of Transportation, $116,000,000.*]

CHAPTER V

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $7,000,000. 7,000,000

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $8,500,000. 8,500,000

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for "Operation and maintenance, Air Interdiction Program", $7,000,000, to remain available until expended. 7,000,000

[*Total, United States Customs Service, $15,500,000.*]

[*Total, Department of the Treasury, $22,500,000.*]

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

For necessary expenses of the Office of National Drug Control Policy, $3,500,000. $3,500,000

[Total, Chapter V, $26,000,000.]

CHAPTER VI

GENERAL PROVISION

No part of any appropriation contained in this title shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This title may be cited as the "Urgent Supplemental Appropriations Act of 1989 To Meet the Dire Emergency Created by the Crisis of Drug Abuse".

Approved November 18, 1988.

LEGISLATIVE HISTORY—H.R. 5210

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 7, 8, 14, 15, 16, and 22, considered and passed House.
Oct. 13 and 14, considered and passed Senate, amended.
Oct. 22, House agreed to Senate amendment with an amendment. Senate agreed to House amendment to Senate amendment.

Grand total, new budget (obligational) authority, Urgent Supplemental Appropriations Act of 1989 To Meet the Dire Emergency Created by the Crisis of Drug Abuse 991,400,000

Note.—The following tabulation is a classification by departments and establishments of new budget (obligational) authority made in the foregoing act:

Chapter	Department or establishment	Amount
I	Department of Justice	$360,400,000
	Department of State	5,000,000
	The Judiciary	51,000,000
II	Department of Labor	2,000,000
	Department of Health and Human Services	316,000,000
	Department of Education	108,000,000
	Related Agency: Action	2,000,000
III	Department of Health and Human Services: Food and Drug Administration	5,000,000
IV	Department of Transportation	116,000,000
V	Department of the Treasury	22,500,000
	Executive Office of the President	3,500,000
	Grand total, new budget (obligational) authority	991,400,000

HAND ENROLLMENT OF APPROPRIATIONS BILLS FOR FISCAL YEAR 1989

Public Law 100-454

100th Congress, H.J. Res. 665

September 29, 1988

JOINT RESOLUTION

Authorizing the hand enrollment of appropriations bills for fiscal year 1989 and authorizing the subsequent, post-enactment preparation of printed enrollments of those bills.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HAND ENROLLMENT AUTHORIZED FOR GENERAL APPROPRIATIONS BILLS.

(a) WAIVER OF CERTAIN LAWS WITH RESPECT TO PRINTING OF ENROLLED BILLS.—During the remainder of the second session of the One Hundredth Congress, the provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any general appropriations bill making appropriations for the fiscal year ending September 30, 1989.

(b) CERTIFICATION BY COMMITTEE ON HOUSE ADMINISTRATION.—The enrollment of any such bill shall be in such form as the Committee on House Administration of the House of Representatives certifies to be a true enrollment.

SEC. 2. SUBSEQUENT PREPARATION AND CERTIFICATION OF PRINTED ENROLLMENTS.

(a) PREPARATION.—

(1) IN GENERAL.—Upon the enactment of a bill following presentment of such bill to the President in the form of a hand enrollment pursuant to the authority of section 1 of this resolution, the Clerk of the House of Representatives shall prepare a printed enrollment of that bill as in the case of a bill to which sections 106 and 107 of title 1, United States Code, apply.

(2) LIMITED STYLISTIC CORRECTIONS.—A printed enrollment prepared pursuant to paragraph (1) may, in order to conform to customary style for printed laws, include corrections in spelling, punctuation, indentation, type face, and type size and other necessary stylistic corrections to the hand enrollment. Such a printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

(b) TRANSMITTAL TO PRESIDENT.—A printed enrollment prepared pursuant to subsection (a) shall be signed by the presiding officer of each House of Congress as a correct printing of the hand enrollment and shall be transmitted to the President.

90-600—91——16 (Vol. 1)

(c) CERTIFICATION BY PRESIDENT; LEGAL EFFECT.—Upon certification by the President that a printed enrollment transmitted pursuant to subsection (b) is a correct printing of the hand enrollment, such printed enrollment shall be considered for all purposes as the original enrollment of the bill concerned and as valid evidence of the enactment of that bill.

(d) ARCHIVES.—A printed enrollment certified by the President under subsection (c) shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment. In preparing the bill concerned for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (c) in lieu of the hand enrollment.

(e) HAND ENROLLMENT DEFINED.—As used in this section, the term "hand enrollment" means the enrollment, as authorized by section 1, of a bill for presentment to the President in a form other than the printed form required by sections 106 and 107 of title 1, United States Code.

Approved September 29, 1988.

LEGISLATIVE HISTORY—H.J. Res. 665

CONGRESSIONAL RECORD, Vol. 134, (1988):
Sept. 28, considered and passed House and Senate.

BUDGET RESCISSION ACT, 1988

Public Law 100-251

100th Congress, H.R. 3884

February 16, 1988

AN ACT

To rescind certain budget authority recommended in Public Law 100-202.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That of the funds made available in the fiscal year 1988 Foreign Operations, Export Financing and Related Programs Appropriations Act (Public Law 100-202), under the heading Migration and Refugee Assistance, $8,000,000 for the construction of educational facilities for North African Jewish refugees in France is rescinded. —$8,000,000 *(rescission)*

Approved February 16, 1988.

LEGISLATIVE HISTORY—H.R. 3884

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 2, considered and passed House and Senate.

100th Congress, 2d Session - - - - - - - - - - House Document 100-230

RESCISSIONS AND DEFERRALS, SEPTEMBER 1, 1988

COMMUNICATION

FROM

THE DIRECTOR, THE OFFICE OF MANAGEMENT AND BUDGET

TRANSMITTING

THE CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS OF BUDGET AUTHORITY AS OF SEPTEMBER 1, 1988, PURSUANT TO 2 U.S.C. 685(e)

SEPTEMBER 14, 1988.—Referred to the Committee on Appropriations and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

19-012 WASHINGTON : 1988

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 9 1988

Honorable Jim Wright
Speaker of the House of
Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

In accordance with Executive Order 11845, I am transmitting the cumulative report required by Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974. In accordance with the Act, the report is also being transmitted to the Senate and will be published in the Federal Register.

Sincerely yours,

James C. Miller III
Director

Enclosure

IDENTICAL LETTER SENT TO THE PRESIDENT OF THE SENATE

CUMULATIVE REPORT ON
RESCISSIONS AND DEFERRALS

September 1, 1988

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of September 1, 1988 of 22 deferrals contained in the four special messages of FY 1988. There have been no rescissions proposed. These messages were transmitted to the Congress on October 1 and 29, 1987, February 19, and July 29, 1988.

Rescissions (Table A and Attachment A)

As of September 1, 1988, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of September 1, 1988, $2,887.0 million in budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1988.

Information from Special Messages

The special messages containing information on the deferrals covered by this cumulative report are printed in the Federal Registers listed below:

Vol. 52, FR p. 37739, Thursday, October 8, 1987
Vol. 52, FR p. 42400, Wednesday, November 4, 1987
Vol. 53, FR p. 6734, Wednesday, March 2, 1988
Vol. 53, FR p. 29418, Thursday, August 4, 1988

TABLE A

STATUS OF 1988 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	0
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	0

****

TABLE B

STATUS OF 1988 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	9,311.6
Routine Executive releases through September 1, 1988 (OMB/Agency releases of $6,448.9 million and cumulative adjustments of $24.3 million)	-6,424.6
Overturned by the Congress	0
Currently before the Congress	2,887.0

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1988

As of September 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
NONE								

Attachment B - Status of Deferrals - Fiscal Year 1988

As of September 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-88
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Foreign military sales credit	D88-2U	2,949,000		2-19-88	2,946,500			17,500	0
Economic support fund	D88-1	40,000		10-1-87					
	D88-1A		1,960,727	2-19-88	1,214,833				785,894
Military assistance	D88-21	608,165		2-19-88					
	D88-21A		1,000	7-29-88	580,766				28,420
International disaster assistance	D88-22	13,479		2-19-88	11,650				1,829
Special Assistance for Central America									
Promotion of stability and security in Central America	D88-2	1,000		10-1-87					1,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D88-3	140,425		10-1-87					
	D88-3A		10,529	2-19-88	300				130,654
Timber salvage sales	D88-4	34,841		10-1-87	10,456				24,385
Cooperative work	D88-5	628,025		10-1-87	157,084				470,941
Gifts, donations, and bequests for forest and rangeland research	D88-6	104		10-1-87	60				44
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense	D88-7	900		10-1-87					
	D88-7A		1,297,848	2-19-88	1,298,748				0
Family Housing									
Family housing, Defense	D88-8	51,015		10-1-87					
	D88-8A		135,940	2-19-88	186,955				0
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D88-9	636		10-1-87					
	D88-9A		149	2-19-88					
	D88-9B		611	7-29-88	24				1,389
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance	D88-14	120		10-29-87					120
Southeastern Power Administration, Operation and maintenance	D88-15	2,000		10-29-87	2,000				0
Southwestern Power Administration, Operation and maintenance	D88-16	6,000		10-29-87					
	D88-16A		7,200	2-19-88					13,200
Western Area Power Administration, Construction, rehabilitation, operation and maintenance	D88-17	774		10-29-87					
	D88-17A		2,426	2-19-88	3,200				0
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program)	D88-18	2,391		10-29-87					
	D88-18A		569	2-19-88					2,960
Social Security Administration									
Limitation on administrative expenses (construction)	D88-10	6,171		10-1-87					
	D88-10A		36	2-19-88					6,207
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victim fund	D88-19	85,000		10-29-87	6,800			6,800	85,000
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive	D88-11	11,638		10-1-87	9,504				2,134

Attachment B - Status of Deferrals - Fiscal Year 1988

As of September 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-88
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration Facilities and equipment (Airport and airway trust fund).....	DBB-12	879,049		10-1-87					
	DBB-12A		450,858	2-19-88					1,329,907
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing Local government fiscal assistance trust fund.....	DBB-13	2,933		10-1-87					2,933
TOTAL, DEFERRALS.....		5,443,688	3,867,892		6,448,882	0		24,300	2,886,998

101st Congress, 1st Session - - - - - - - - - - House Document 101-23

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS, JANUARY 1, 1989

COMMUNICATION

FROM

THE DIRECTOR, THE OFFICE OF MANAGEMENT AND BUDGET

TRANSMITTING

THE CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS OF BUDGET AUTHORITY AS OF JANUARY 1, 1989, PURSUANT TO 2 U.S.C. 685(e)

JANUARY 19, 1989.—Referred to the Committee on Appropriations and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

29-011 WASHINGTON : 1989

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

[illegible] 1989

Honorable Jim Wright
Speaker of the House of
Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

In accordance with Executive Order 11845, I am transmitting the cumulative report required by Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974. In accordance with the Act, the report is also being transmitted to the Senate and will be published in the Federal Register.

Sincerely,

Joseph R. Wright, Jr.
Director

Enclosure

IDENTICAL LETTER SENT TO THE PRESIDENT OF THE SENATE

CUMULATIVE REPORT ON
RESCISSIONS AND DEFERRALS

January 1, 1989

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of January 1, 1989 of 14 deferrals contained in the first two special messages of FY 1989. There have been no rescissions proposed. These messages were transmitted to the Congress on September 30, and November 29, 1988.

Rescissions (Table A and Attachment A)

As of January 1, 1989, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of January 1, 1989, $7,811.5 million in budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1989.

Information from Special Messages

The special messages containing information on the deferrals covered by this cumulative report are printed in the Federal Registers as listed below:

Vol. 53, FR p. 39879, Wednesday, October 12, 1988
Vol. 53, FR p. 49530, Wednesday, December 7, 1988

TABLE A

STATUS OF 1989 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	0
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	0

****

TABLE B

STATUS OF 1989 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	8,942.5
Routine Executive releases through January 1, 1989 (OMB/Agency releases of $1,137.1 million and cumulative adjustments of $6.0)	-1,131.1
Overturned by the Congress	0
Currently before the Congress	7,811.5

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1989

As of January 1, 1989 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
NONE								

Attachment B - Status of Deferrals - Fiscal Year 1989

As of January 1, 1989 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change (+)	Date of Message	Cumulative OMB/Agency Releases (-)	Congressionally Required Releases (-)	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 1-1-89
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Foreign military sales credit	D89-11	4,122,750		11-29-88	300,000				3,822,750
Economic support fund	D89-01	592,760		09-30-88					
	D89-01A		2,054,000	11-29-88	779,860				1,866,900
Military assistance	D89-12	457,000		11-29-88	9,000				448,000
International military education and training	D89-13	37,400		11-29-88	37,400				0
Agency for International Development									
International disaster assistance	D89-14	18,125		11-29-88	4,796				13,329
Special Assistance for Central America									
Promotion of stability and security in Central America	D89-2	1,000		09-30-88					1,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D89-3	144,649		09-30-88					144,649
Cooperative work	D89-4	335,263		09-30-88					335,263
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D89-5	1,212		09-30-88					1,212
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Southwestern Power Administration, Operation and maintenance	D89-6	2,800		09-30-88					2,800
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses (construction)	D89-7	6,745		09-30-88					6,745
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victims fund	D89-8	90,000		09-30-88					90,000
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive	D89-9	26,135		09-30-88					
	D89-9A		27,000	11-29-88	6,001			6,001	53,135
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund)	D89-10	823,608		09-30-88					
	D89-10A		202,084	11-29-88					1,025,692
TOTAL, DEFERRALS		6,659,446	2,283,084		1,137,056	0		6,001	7,811,475

DEFERRAL RESOLUTIONS

CLERK'S NOTE: There were no *separate* deferral resolutions acted upon by the Committees on Appropriations during the 100th Congress, 2d session.

Public Law 100-339
100th Congress

102 STAT. 620

An Act

To authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program at Lubbock, Texas.

June 17, 1988
[S. 1652]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF PLANT STRESS AND WATER CONSERVATION RESEARCH LABORATORY AND PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 1431(a) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99-198; 99 Stat. 1556), there are authorized to be appropriated such sums as may be necessary for the planning, construction, and acquisition by the Secretary of Agriculture acting through the Agricultural Research Service, of buildings and equipment to establish at Lubbock, Texas, a laboratory and program for plant stress and water conservation research.

(b) AVAILABILITY OF FUNDS.—Funds appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

SEC. 2. COLLEGE-AID ANNUAL APPROPRIATION.

Section 5 of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 326a) is amended to read as follows:

"SEC. 5. There is appropriated annually, out of funds in the Treasury not otherwise appropriated, for payment to the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands or its successor governments the amount they would be entitled to receive under this Act if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by the first sentence of section 1.".

102 STAT. 621

SEC. 3. EFFECTIVE DATE.

7 USC 326a note.

This Act shall take effect on October 1, 1987.

Approved June 17, 1988.

LEGISLATIVE HISTORY—S. 1652 (H.R. 2663):

HOUSE REPORTS: No. 100-240 accompanying H.R. 2663 (Comm. on Agriculture).
CONGRESSIONAL RECORD:
Vol. 133 (1987): July 27, H.R. 2663 considered and passed House.
Vol. 134 (1988): May 27, S. 1652, considered and passed Senate.
June 1, considered and passed House.

102 STAT. 924 Public Law 100-387
100th Congress

An Act

Aug. 11, 1988
[H.R. 5015]

To provide drought assistance to agricultural producers, and for other purposes.

Disaster Assistance Act of 1988.
7 USC 1421 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Disaster Assistance Act of 1988".

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Sec. 503. Assistance to low-income agricultural workers.

TITLE I—EMERGENCY LIVESTOCK ASSISTANCE

SEC. 101. EMERGENCY FEED AND RELATED ASSISTANCE.

(a) IN GENERAL.—The Agricultural Act of 1949 is amended by adding at the end thereof the following new title:

"TITLE VI—EMERGENCY LIVESTOCK FEED ASSISTANCE ACT OF 1988

Emergency Livestock Feed Assistance Act of 1988.

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Emergency Livestock Feed Assistance Act of 1988'.

7 USC 1421 note.

"DEFINITIONS

"SEC. 602. As used in this title:

7 USC 1471.

"(1) The term 'livestock producer' means—

"(A) a person that is actively engaged in farming and that receives a substantial amount of total income from the production of grain or livestock, as determined by the Secretary, that is—

"(i) an established producer or husbander of livestock or a dairy producer who is a citizen of, or legal resident alien in, the United States; or

"(ii) a farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in, the United States, if such cooperative, corporation, partnership, or joint operation is engaged in livestock production or husbandry, or dairy production; or

"(B) Any of the following entities that is actively engaged in livestock production or husbandry, or dairy production—

"(i) any Indian tribe (as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(b));

"(ii) any Indian organization or entity chartered under the Act of June 18, 1934 (48 Stat. 984, chapter 576; 25 U.S.C. 461 et seq.), commonly known as the 'Indian Reorganization Act';

"(iii) any tribal organization (as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c))); or

"(iv) any economic enterprise (as defined in section 3(e) of the Indian Financing Act of 1974 (25 U.S.C. 1452(e)));

"(2) The term 'livestock' means cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, fish used for food, and other animals designated by the Secretary (at the Secretary's sole discretion) that—

"(A) are part of a foundation herd (including producing dairy cattle) or offspring; or

"(B) are purchased as part of a normal operation and not to obtain additional benefits under this title.

"(3) The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

"(4) The term 'feed', for the purposes of emergency feed assistance, means any type of feed (including feed grain, oilseed meal, premix or mixed feed, liquid or dry supplemental feed, roughage, pasture, or forage) that—

"(A) best suits the livestock producer's operation; and

"(B) is consistent with acceptable feed practices.

"(5) The term 'area' includes any Indian reservation (as defined in section 335(e)(1)(D)(ii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(e)(1)(D)(ii))).

102 STAT. 927

"EMERGENCY LIVESTOCK ASSISTANCE

7 USC 1471a.

"SEC. 603. (a) The Secretary shall provide emergency feed assistance under this title for the preservation and maintenance of livestock in any State or area of a State where, because of disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster, the Secretary determines that a livestock emergency exists.

"(b)(1) The Secretary shall provide emergency feed assistance under this title for the preservation and maintenance of livestock, to livestock producers that—

"(A) conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has determined, under subsection (a), that a livestock emergency exists, and

"(B) are otherwise eligible for assistance under this title.

"(2) The Secretary shall accept applications for assistance under this subsection from producers that are affected by the livestock emergency at any time during the eight-month period beginning on the date on which the Secretary determines that such emergency exists in the other county.

"DETERMINATION OF NEED FOR ASSISTANCE

State and local governments.
7 USC 1471b.

"SEC. 604. (a)(1) Whenever the Governor of a State determines that a livestock emergency due to a natural disaster exists in the State, or a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)) determines that such an emergency exists in the county, the Governor or county committee may submit a request for a determination by the Secretary of a livestock emergency in such State or county and for emergency livestock feed assistance under this title.

"(2) The request of a Governor or county committee for a livestock

emergency determination and for emergency livestock feed assistance shall include, to the extent feasible, recommendations to the Secretary of those options that will most fully use feed available through local sources.

"(b) The Secretary may consider a State, county, or area in a State for a livestock emergency determination and emergency livestock feed assistance under this title whether or not a request for assistance is submitted, as described in subsection (a).

"(c) The Secretary shall act on requests for determinations under subsection (a) and make final determinations on whether a livestock emergency exists in any State, county, or area, under regulations that ensure thorough and prompt action (not later than 30 days after receipt of any such request) and provide for appropriate notification procedures.

"(d) Notwithstanding the preceding provisions of this section, any State, county, or area determined eligible, due to drought or related conditions in 1988, for the emergency feed program or emergency feed assistance program conducted prior to the effective date of this title shall continue to be eligible for such programs and may be eligible for other programs under this title for such drought or related condition. As soon as practicable after the effective date of this title, the Secretary shall determine whether any of the programs described in section 606, other than the emergency feed program under section 606(a)(4) and the emergency feed assistance program under section 606(a)(2), or in section 607 should be made available in such State, county, or area. If the Secretary makes such determination, the Secretary shall make such programs immediately available to livestock producers in the State, county, or area.

102 STAT. 928

"ELIGIBLE PRODUCERS

"SEC. 605. (a)(1) If the Secretary determines that a livestock emergency exists in a State, county, or area, qualifying livestock producers located in such State, county, or area, or in a contiguous county as provided for in section 603(b), shall be eligible (under application procedures established by the Secretary) for emergency feed assistance under this title in accordance with this subsection.

7 USC 1471c.

"(2) For the purposes of this subsection, a 'qualifying livestock producer' is a livestock producer who has suffered a substantial loss in feed normally produced on the farm for such producer's livestock as a result of the livestock emergency and, as a result, does not have sufficient feed that has adequate nutritive value and is suitable for each of such producer's particular types of livestock (as of the date of the request, or initiation of consideration, for a determination of a livestock emergency under section 604) for the estimated duration of the emergency.

"(3) Each qualifying livestock producer shall be eligible for emergency feed assistance under the programs specified in section 606(a) that is made available where the producer is located in quantities sufficient to meet such feed deficiency with respect to the producer's livestock normally fed with feed produced by the producer.

"(b) Each livestock producer in such State, county, or area, or in a contiguous county as provided for in section 603(b), regardless of whether the producer qualifies for assistance under subsection (a), shall be eligible for emergency assistance under the programs specified in section 607 that are made available where the producer is located.

"(c) Any livestock producer, located in a county or area in which benefits under the emergency feed program or the emergency feed assistance program were made available due to the drought or related condition in 1988 prior to the effective date of this title, who qualifies for assistance under such pre-existing programs shall be eligible for assistance for such drought or related conditions as prescribed in subsection (a) or, at the producer's option, for assistance under such pre-existing programs.

"ASSISTANCE PROGRAMS

7 USC 1471d.

"SEC. 606. (a) In accordance with section 605(a), the Secretary shall make one or more of the following assistance programs available to qualifying livestock producers in a State, county or area, if the Secretary determines that the livestock emergency in such State, county or area requires the implementation of such program:

"(1) The donation of feed grain owned by the Commodity Credit Corporation to producers who are financially unable to purchase feed under paragraph (2) or to participate in any other program authorized under this subsection.

"(2) The sale of feed grain owned by the Commodity Credit Corporation to producers for livestock feed at a price, established by the Secretary, that does not exceed—

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"(A) with respect to such assistance provided for any livestock emergency determined to exist prior to January 1, 1989, 75 percent of the current basic county loan rate for such feed grain in effect under this Act (or at a comparable price if there is no such current basic county loan rate), or

"(B) with respect to such assistance provided for any other livestock emergency, 50 percent of the average market price in the county or area involved, as determined by the Secretary.

Transportation.

"(3) Reimbursement of any transportation and handling expenses incurred, not to exceed 50 percent of such expenses, by a producer in connection with feed grain donations or sales under paragraphs (1) and (2).

"(4) Reimbursement of not to exceed 50 percent of the cost of feed purchased by a producer for the producer's livestock during the duration of the livestock emergency.

Transportation.

"(5) Hay and forage transportation assistance to producers of not to exceed 50 percent of the cost of transporting hay or forage purchased from a point of origin beyond a producer's normal trade area to the livestock, subject to the following limitations:

"(A) The transportation assistance may not exceed $50 per ton of eligible hay or forage ($12.50 for silage).

"(B) The quantity of eligible hay and forage for each producer may not exceed the lesser of—

"(i) 20 pounds per day per eligible animal unit; or

"(ii) the quantity of additional feed needed by the producer for the duration of the livestock emergency.

Transportation.

"(6) Livestock transportation assistance to producers of not to exceed 50 percent of the cost of transporting livestock to and from available grazing locations, except that such assistance may not exceed the lesser of—

"(A) $24 per head of a producer's eligible livestock; or

"(B) the local cost of the quantity of additional feed needed by the producer for the eligible livestock for duration of the livestock emergency.

"(b) If assistance is made available through the furnishing of feed grain under paragraph (1) or (2) of subsection (a), the Secretary may provide for the furnishing of the feed grain through a dealer or manufacturer and the replacing of the feed grain so furnished from feed grain owned by the Commodity Credit Corporation.

"(c) In providing assistance under paragraph (2) or (4) of subsection (a), the Secretary may make in-kind payments or reimbursements through the issuance of negotiable certificates that the Commodity Credit Corporation shall exchange for a commodity in accordance with rules prescribed by the Secretary.

"(d) No payment or benefit provided under this section shall be payable or due until such time as a completed application therefor has been approved.

"(e) A person eligible to receive a payment or benefit under this section with respect to a livestock emergency determined to exist prior to January 1, 1989, shall make application for such payment or

benefit not later than March 31, 1989, or such later date that the Secretary, by regulation, may prescribe.

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"ADDITIONAL ASSISTANCE

"SEC. 607. (a) In addition to the assistance provided under section 606, if the Secretary determines that the livestock emergency also requires the implementation of one or more of the assistance programs described in subsection (b), the Secretary shall implement such programs. 7 USC 1471e.

"(b) Special assistance under this section includes—

"(1) the donation of feed owned by the Commodity Credit Corporation for use in feeding livestock stranded and unidentified as to its owner, including the cost of transporting feed to the affected area, during such period as the Secretary, by regulation, may prescribe; Transportation.

"(2) reimbursement of not to exceed 50 percent of the cost of— Water.

"(A) installing pipelines (if that is the least expensive method) or other facilities, including tanks or troughs, for livestock water;

"(B) construction or deepening of wells for livestock water; or

"(C) developing springs or seeps for livestock water,

as appropriate in drought areas to facilitate more efficient and better-distributed grazing on land normally used for grazing. Such cost-share assistance may not be made available to provide water for wildlife or recreational livestock, dry lot feeding, or barns or corrals, or to acquire pumping equipment;

"(3) reimbursement of not to exceed 50 percent of the cost of burning prickly pear cactus to make it suitable for animal feed; and

"(4) making commodities owned by the Commodity Credit Corporation available to livestock producers through the use of a catalog that specifies lots of a size that are economically feasible for a small producer to obtain by means of certificate exchanges.

"USE OF THE COMMODITY CREDIT CORPORATION

"SEC. 608. The Secretary shall carry out this title through the use of the funds, facilities, and authorities of the Commodity Credit Corporation. 7 USC 1471f.

"BENEFITS LIMITATION

"SEC. 609. (a) The total amount of benefits that a person shall be entitled to receive annually under one or more of the programs established under this title may not exceed $50,000. 7 USC 1471g.

"(b) The Secretary shall issue regulations— Regulations.

"(1) defining the term 'person', which shall conform, to the extent practicable, to the regulations defining the term 'person' issued under section 1001 of the Food Security Act of 1985, or successor statute;

"(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section; and

"(3) providing that the term 'person' shall include, in the case of any cooperative association of producers, each member of the association with respect to benefits due to such member of the association.

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"(c) No person may receive benefits under this title attributable to lost production of a feed commodity due to a natural disaster in 1988 to the extent that such person receives a disaster payment under the Disaster Assistance Act of 1988 on such lost production.

"(d) Each person otherwise eligible for a livestock emergency benefit under this title in 1988 shall be subject to the combined payment and benefits limitation established under section 211(c) of the Disaster Assistance Act of 1988.

"INELIGIBILITY

7 USC 1471h.

"SEC. 610. (a) Any person that has qualifying gross revenues in excess of $2,500,000 annually, as determined by the Secretary, shall not be eligible to receive any livestock emergency benefits under this title.

"(b) For purposes of this section, the term 'qualifying gross revenue' means—

"(1) if a majority of the person's annual income is received from farming and ranching operations, the gross revenue from the person's farming and ranching operations; and

"(2) if less than a majority of the person's annual income is received from farming and ranching operations, the person's gross revenue from all sources.

"ADMINISTRATION

Regulations.
7 USC 1471i.

"SEC. 611. (a) The Commodity Credit Corporation shall issue regulations to carry out this title.

"(b) Such regulations shall establish procedures to ensure that the request for assistance by a Governor or county committee under section 604, and individual applications of livestock producers under section 605 for assistance, are processed and decisions thereon are made as quickly as practicable.

) For purposes of this title, indigenous plants available to a livestock producer but not normally consumed by livestock as feed, such as cactus, may not be considered as feed on hand for such producers.

"PENALTIES

7 USC 1471j.

"SEC. 612. A person that disposes of any feed made available to a livestock producer under this title other than as authorized by the Secretary shall be (1) subject to a civil penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose, and (2) guilty of a misdemeanor and, on conviction thereof, subject to a fine of not more than $1,000, or imprisonment for not more than one year, or both.".

(b) CONFORMING CHANGES.—(1) Section 1105 of the Food and Agriculture Act of 1977 (7 U.S.C. 2267) is repealed.

(2) Section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) is amended by striking out "and may make feed owned or controlled by it" in the fifth sentence and all that follows through the end of the sixth sentence and inserting in lieu thereof "and may donate or sell commodities in accordance with title VI.".

(3) Section 421 of the Agricultural Act of 1949 (7 U.S.C. 1433) is repealed.

7 USC 1427 note.

(4) Public Law 86–299 (73 Stat. 574), as amended, is repealed.

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(5) Section 303 of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 1427 note) is repealed.

7 USC 1427 note.

(c) EFFECTIVE PERIOD.—(1) This section and the amendments made by this section shall become effective 15 days after the date of the enactment of this Act.

(2) The provisions of section 604(d), 605(c), 606(a)(2)(A), 606(e), 609(c), and 609(d) of the Agricultural Act of 1949, as added by subsection (a), shall apply only with respect to any livestock emergency in 1988.

SEC. 102. ASSISTANCE FOR DAIRY FARMERS.

(a) FISCAL YEAR 1989 GENERALLY.—Section 201(d)(1)(D) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(1)(D)) is amended by striking out "if for any of the calendar years 1988, 1989, and 1990" and inserting in lieu thereof "if for each of the calendar years 1988 and 1990".

Effective date.
Termination date.
7 USC 1446 note.

(b) TEMPORARY INCREASE IN PRICE SUPPORT.—Notwithstanding section 201(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(1)), the rate of price support for milk in effect under such section imme-

diately before April 1, 1989, shall be increased by 50 cents throughout the period beginning on April 1, 1989, and ending on June 30, 1989.

SEC. 103. EMERGENCY FORAGE PROGRAM.

Contracts.
7 USC 1471d note.

(a) IN GENERAL.—The Secretary of Agriculture shall implement an emergency forage program for established pasture damaged by the drought or related condition in 1988, under which the Secretary shall enter into cost-share agreements with owners or operators of such damaged land to provide for reseeding of forage crops on such land to facilitate late fall 1988 and early spring 1989 grazing and haying. Assistance may be provided to such owners and operators only when—

(1) the forage crop will not regenerate naturally;

(2) reseeding is the most cost-effective method to reestablish the forage crop; and

(3) reseeding is not undertaken simply to improve the forage crop damaged by the drought.

(b) COST-SHARE.—The Secretary shall share half the costs incurred under each agreement entered into under subsection (a), including the costs of seed, fertilizer, and other inputs on reseeded pasture.

(c) LIMITATIONS.—(1) The total amount of payments an owner or operator of pasture land shall be entitled to receive under this section shall be $3,500.

(2) The Secretary may cost-share for reseeding under this section only if the reseeding is to nonannual crops planted for pasture purposes.

(d) FUNDING.—(1) The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(2) Not more than $50,000,000 of the funds of the Commodity Credit Corporation may be expended under paragraph (1).

(3) To ensure the equitable award of funds under agreements under this section, as limited under paragraph (2), the Secretary may prorate, and adopt procedures to facilitate proration of, funds made available under this section.

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TITLE II—EMERGENCY CROP LOSS ASSISTANCE

Subtitle A—Annual Crops

SEC. 201. PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGET PRICE COMMODITIES.

7 USC 1421 note.

(a) DISASTER PAYMENTS.—(1) Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as otherwise provided in this subsection, if the Secretary of Agriculture determines that, because of drought, hail, excessive moisture, or related condition in 1988, the total quantity of the 1988 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 65 percent of the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of drought, hail, excessive moisture, or related condition in 1988, as determined by the Secretary) for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to—

(A) 65 percent of the established price for the crop for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(B) 90 percent of the established price for the crop for any deficiency in production greater than 75 percent for the crop.

(2)(A) Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm with respect to any acreage in excess of the permitted acreage for the farm for the commodity.

Contracts.
Insurance.

(B) Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(3) The total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm under the Agricultural Act of 1949 shall be reduced by the quantity on which a payment is made to the producers for the crop under paragraph (1).

Conservation.

(4) Effective only for the 1988 crops of wheat and feed grains, in the case of producers on a farm who elected after March 11, 1988, to devote all or a portion of the permitted acreage of the farm for the commodity to conservation or other uses in accordance with section 107D(e)(1)(C) or 105C(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3(c)(1)(C) or 1444e(c)(1)(B)), the Secretary shall allow (within 30 days after the date of the enactment of this Act) such producers to elect whether to receive disaster payments in accordance with this subsection in lieu of payments under such section.

(b) ADVANCE DEFICIENCY PAYMENTS.—(1) This subsection shall apply only to producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1988 crop of wheat, feed grains, upland cotton, or rice.

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(2)(A) Subject to subparagraph (B), if because of drought, hail, excessive moisture, or related condition in 1988 the total quantity of the 1988 crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of such natural disaster, as determined by the Secretary) for such crop (hereinafter referred to as the "qualifying amount"), the producers shall not be required to refund any advance deficiency payment made to the producers for such crop under section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b–2) with respect to that portion of the deficiency in production that does not exceed 35 percent of the qualifying amount.

Contracts.
Insurance.

(B) Producers on a farm shall not be eligible for the waiver provided for under subparagraph (A), unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(3) The Secretary shall allow producers on a farm that elected, prior to the date of enactment of this Act, not to receive advance deficiency payments made available for the 1988 crop under section 107C of such Act, to elect (within 30 days after the date of the enactment of this Act) whether to receive such advance deficiency payments.

(4) Effective only for the 1988 crops of wheat, feed grains, upland cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for the crop under section 107C of such Act must be refunded, such refund shall not be required prior to July 31, 1989, for that portion of the crop for which a disaster payment is made under subsection (a).

7 USC 1421 note.

SEC. 202. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) DISASTER PAYMENTS.– Effective only for producers on a farm who elected not to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, if the Secretary of Agriculture determines that because of drought, hail, excessive moisture, or related condition in 1988, the total quantity of the 1988 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 65 percent of the county average yield established by the Secretary for

such crop by the sum of acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers. The payment shall be made to the producers at a rate equal to—

(1) 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(2) 90 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

(b) PREVENTED PLANTING CREDIT.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acre- 102 STAT. 935
age that producers on a farm were prevented from planting to the 1988 crop of the commodity for harvest because of drought, hail, excessive moisture, or related condition in 1988, as determined by the Secretary. Such acreage may not exceed the greater of—

(1) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987 minus acreage actually planted to the commodity for harvest in 1988; or

(2) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1985, 1986, and 1987, minus acreage actually planted to the commodity for harvest in 1988.

The Secretary shall make appropriate adjustments in applying the limitations contained in the preceding sentence to take into account crop rotation practices of the producers.

(c) LIMITATIONS.—(1) The amount of payments made available to producers on a farm for a crop of a commodity under subsection (a) shall be reduced by a factor equivalent to the acreage limitation program percentage established for such crop under the Agricultural Act of 1949.

(2) Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207. Contracts. Insurance.

SEC. 203. PEANUTS, SUGAR, AND TOBACCO. 7 USC 1421 note.

(a) DISASTER PAYMENTS.—(1) Effective only for the 1988 crops of peanuts, sugar beets, sugarcane, and tobacco, if the Secretary of Agriculture determines that, because of drought, hail, excessive moisture, or related condition in 1988, the total quantity of the 1988 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of the county average yield (or program yield, in the case of peanuts) established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers. The payment shall be made to the producers at a rate equal to—

(A) 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop (or in the case of a crop of burley tobacco or flue-cured tobacco, for any deficiency in production greater than 35 percent, but not greater than 75 percent, of the farm's effective marketing quota for 1988); and

(B) 90 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop (or, in the case

of burley tobacco or flue-cured tobacco, for any deficiency in production greater than 75 percent of the farm's effective marketing quota for 1988).

(2) For purposes of paragraph (1), the payment level for a commodity shall be equal to—

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(A) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as appropriate;

(B) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 204(a)(2); and

(C) for sugar beets and sugarcane, a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for the 1988 crops of sugar beets and sugarcane, and that, insofar as is practicable, shall reflect no less return to the producer than under the 1988 price support levels.

(b) PREVENTED PLANTING CREDIT.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1988 crop of the commodity for harvest because of drought, hail, excessive moisture, or related condition in 1988, as determined by the Secretary. Such acreage may not exceed the greater of—

(1) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987 minus acreage actually planted for harvest in 1988; or

(2) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1985, 1986, and 1987, minus acreage actually planted to the commodity for harvest in 1988.

The Secretary shall make appropriate adjustments in applying the limitations contained in the preceding sentence to take into account crop rotation practices of the producers and increased quotas for the 1988 crops of tobacco.

Contracts. Insurance.

(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(d) SPECIAL RULES FOR PEANUTS.—Notwithstanding any other provision of law—

(1) a deficiency in production of quota peanuts from a farm, as otherwise determined under this section, shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

Claims.

(2) payments made under this section shall be taken into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

Claims.

(3) the amount of undermarketings of quota peanuts from a farm for the 1988 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

(e) SPECIAL RULES FOR TOBACCO.—Notwithstanding any other provision of law—

Claims.

(1) the amount of undermarketings of quota tobacco from a

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farm for the 1988 crop that may otherwise be claimed under section 317 or 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c or 1314e) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such tobacco for which payment has been received under this section; and

(2) disaster payments made to producers under this section

may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under section 106A(d) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)).

(f) SPECIAL RULE FOR SUGAR.—A producer of the 1988 crop of sugarcane or sugar beets that is unable to process the commodity into sugar due to the inability of local processing plants to process sugar as a result of drought, hail, excessive moisture, or related condition in 1988 shall be eligible for disaster payments in accordance with subsection (a) for any loss in sugar production attributable to such inability. Disaster payments made available under this subsection for such loss of production shall be reduced by an amount equal to any proceeds received by the producer from the disposition of that portion of the crop on which disaster payments are made.

SEC. 204. SOYBEANS AND NONPROGRAM CROPS. 7 USC 1421 note.

(a) DISASTER PAYMENTS.—(1)(A) Effective only for the 1988 crops of soybeans and nonprogram crops, if the Secretary of Agriculture determines that, because of drought, hail, excessive moisture, or related condition in 1988, the total quantity of the 1988 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of—

(i) with respect to soybeans, the State, area, or county yield, adjusted for adverse weather conditions during the three previous crop years, as determined by the Secretary; or

(ii) with respect to nonprogram crops, the yield established by the Commodity Credit Corporation under subsection (d)(2),

for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

(B) The payment shall be made to such producers at a rate equal to—

(i) 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(ii) 90 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

(2) For purposes of paragraph (1), the payment level for a commodity shall equal the simple average price received by producers of the commodity, as determined by the Secretary subject to paragraph (3), during the marketing years for the immediately preceding five crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

(3)(A) The Secretary shall make disaster payments under subsection (a) on a crop by crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary. Regulations.

(B) For the purposes of determining the payment rates on a crop by crop basis, the Secretary shall consider as separate crops, and develop separate payment rates insofar as is practicable for, different varieties of the same commodity for which there is a significant difference in the economic value in the market. 102 STAT. 938

(b) PREVENTED PLANTING CREDIT.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1988 crop of the commodity for harvest because of drought, hail, excessive moisture, or related condition in 1988, as determined by the Secretary. Such acreage may not exceed the greater of—

(1) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987 minus acreage actually planted for harvest in 1988; or

(2) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers)

to the commodity for harvest in 1985, 1986, and 1987, minus acreage actually planted to the commodity for harvest in 1988. The Secretary shall make appropriate adjustments in applying the limitations contained in the preceding sentence to take into account crop rotation practices of the producers.

Contracts. Insurance.

(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(d) SPECIAL RULES FOR NONPROGRAM CROPS.—(1) As used in this section, the term "nonprogram crop" means all crops (including sweet potatoes) for which crop insurance through the Federal Crop Insurance Corporation was available for crop year 1988, and other commercial crops (including sweet potatoes) for which such insurance was not available for crop year 1988, except that such term shall not include a crop covered under section 201, 202, or 203, or soybeans.

(2) The Commodity Credit Corporation shall establish disaster program farm yields for nonprogram crops. The yield for a farm shall be based on proven yields, if the producers on the farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least one of the immediately preceding three crop years. If such data do not exist for any of the three preceding crop years, the Commodity Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity.

(3) It shall be the responsibility of the producers of nonprogram crops to provide satisfactory evidence of crop losses resulting from drought, hail, excessive moisture, or related condition in 1988 in order for such producers to obtain disaster payments under this section.

7 USC 1421 note.

SEC. 205. CROP QUALITY REDUCTION DISASTER PAYMENTS.

(a) IN GENERAL.—To ensure that all producers of 1988 crops covered under the provisions of sections 201 through 203, and producers of soybeans, are treated equitably, the Secretary of Agriculture may make additional disaster payments to producers of such crops that suffer losses resulting from the reduced quality of such crops caused by drought, hail, excessive moisture, or related conditions in 1988, as determined by the Secretary.

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(b) ELIGIBLE PRODUCERS.—If the Secretary determines to make crop quality disaster payments available to producers under subsection (a), producers on a farm of a crop described in subsection (a) shall be eligible to receive reduced quality disaster payments only if such producers incur a deficiency in production of not less than 35 percent and not more than 75 percent for such crop (as determined under section 201, 202, 203, or 204, as appropriate).

(c) MAXIMUM PAYMENT RATE.—The Secretary shall establish the reduced quality disaster payment rate, but such rate shall not exceed 10 percent, as determined by the Secretary, of—

(1) the established price for the crop, for commodities covered under section 201;

(2) the basic county loan rate for the crop (or a comparable price if there is no current basic county loan rate), for commodities covered under section 202;

(3) the payment level under section 203(a)(2), for commodities covered by section 203; and

(4) the payment level under section 204(a)(2), for commodities covered under section 204.

(d) DETERMINATION OF PAYMENT.—The amount of payment to a producer under this section shall be determined by multiplying the payment rate established under subsection (c) by the portion of the actual harvested crop on the producer's farm that is reduced in quality by such natural disaster in 1988, as determined by the Secretary.

SEC. 206. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS. 7 USC 1421 note.

In the case of producers on a farm who obtained crop insurance for the 1988 crop of a commodity under the Federal Crop Insurance Act, the Secretary of Agriculture shall reduce the amount of payments made available under this subtitle for such crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by such producers for the deficiency in the production of the crop and the disaster payment determined in accordance with this subtitle for such crop exceeds the amount determined by multiplying—

(1) 100 percent of the yield used for the calculation of disaster payments made under this subtitle for such crop, by

(2) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary (or, in the case of disaster payments under section 201, the eligible acreage established under sections 201(a)(1) and 201(a)(2)(A)), by

(3)(A) in the case of producers who participated in a production adjustment program for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the established price for the 1988 crop of the commodity;

(B) in the case of producers who did not participate in a production adjustment program for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the basic county loan rate (or a comparable price, as determined by the Secretary, if there is no current basic county loan rate) for the 1988 crop of the commodity;

(C) in the case of producers of sugar beets, sugarcane, peanuts, or tobacco, the payment level for the commodity established under section 203(a)(2); and

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(D) in the case of producers of soybeans or a nonprogram crop (as defined in section 204(d)(1)), the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding five crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

SEC. 207. CROP INSURANCE COVERAGE FOR THE 1989 CROPS. Loans. Contracts. 7 USC 1421 note.

(a) REQUIREMENT.—Subject to the limitations under subsection (b), producers on a farm, to be eligible to receive a disaster payment under this subtitle, an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) for crop losses due to drought, hail, excessive moisture, or related condition in 1988, or forgiveness of the repayment of advance deficiency payments under section 201(b), must agree to obtain multiperil crop insurance under the Federal Crop Insurance Act for the 1989 crop of the commodity for which such payments, loans, or forgiveness are sought.

(b) LIMITATIONS.—Producers on a farm shall not be required to agree to obtain crop insurance under subsection (a) for a commodity—

(1) unless the producers' deficiency in production, with respect to the crop for which a disaster payment under this subtitle otherwise may be made, exceeds 65 percent;

(2) where, or if, crop insurance coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought;

(3) if the producers' annual premium rate for such crop insurance is an amount greater than 125 percent of the average premium rate for insurance on that commodity for the 1988 crop in the county in which the producers are located;

(4) in any case in which the producers' annual premium for such crop insurance is an amount greater than 25 percent of the amount of the payment, loan, or forgiveness sought; or

(5) if the producers can establish by appeal to the county

committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), or to the county committee established under section 332 of the Consolidated Farm and Rural Development Act (17 U.S.C. 1982), as appropriate, that the purchase of crop insurance would impose an undue financial hardship on such producers and that a waiver of the requirement to obtain crop insurance should, in the discretion of the county committee, be granted.

(c) IMPLEMENTATION.—(1) The Secretary of Agriculture shall ensure (acting through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and located in the counties in which the assistance programs provided for under sections 201 through 205 are implemented and through the county committees established under section 332 of the Consolidated Farm and Rural Development Act in counties in which emergency loans, as described in subsection (a), are made available) that producers who apply for assistance, as described in subsection (a), obtain multiperil crop insurance as required under this section.

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(2) Each producer who is subject to the requirements of this section may comply with such requirements by providing evidence of multiperil crop insurance coverage from sources other than through the county committee office, as approved by the Secretary.

Regulations.

(3) The Secretary shall provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into under this section sufficient to reflect that such insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company.

(d) REPAYMENT OF BENEFITS.—Each producer subject to the requirements under this section shall make immediate repayment to the Secretary of any disaster payment or forgiven advance deficiency payment that the producer otherwise is required to repay, and (notwithstanding any other provision of law) shall become immediately liable for full repayment of all principal and interest outstanding on any emergency loan described in subsection (a) made subject to this section, at any time (prior to the end of the 1989 crop year for the commodity involved) that the crop insurance coverage required of the producer under this section is cancelled by the producer.

Insurance.
7 USC 1421 note.

SEC. 208. DRY EDIBLE BEANS; COMMUNICATION AND EDUCATION.

(a) DRY EDIBLE BEANS.—Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended by inserting after subsection (i) the following new subsection:

"(j) To accumulate, prior to the 1989 crop year, sufficient actuarial data to enable the Corporation to provide crop insurance that meets the differentiated needs of producers of different types of dry edible beans. Commencing with the 1989 crop year, the Corporation shall make such crop insurance available to producers.".

(b) COMMUNICATION AND EDUCATION.—The Federal Crop Insurance Corporation, as soon as practicable, shall make improvements in—

(1) the dissemination of information to producers on the availability of Federal crop insurance, using existing Department of Agriculture education facilities and producer financial and crop program support personnel;

(2) the training requirements of crop insurance agents who sell and service Federal crop insurance coverage;

(3) the incentives to increase the sale of Federal crop insurance through the delivery systems provided for under sections 507(c) and 508(e) of the Federal Crop Insurance Act;

(4) the Federal crop insurance agency referral system for producers seeking information or insurance coverage;

(5) the cooperation between Federal and State agencies relating to the Federal crop insurance program; and

(6) the use of financial and educational computer programs available in Federal and State agencies to foster the use of Federal crop insurance as a uniform input of costs of production

of agricultural commodities for purposes of disaster risk management.

SEC. 209. TRANSFER OF FUNDS. 7 USC 1421 note.

The Secretary of Agriculture may transfer funds made available to the Commodity Credit Corporation during fiscal year 1988 to the Agricultural Stabilization and Conservation Service in such amounts as may be necessary for salaries and other expenses incurred in carrying out titles I and II of this Act, except that this authorization shall be available only if funding for this purpose is not provided under an appropriations Act. 102 STAT. 942

SEC. 210. CROPS HARVESTED FOR FORAGE USES. 7 USC 1421 note.

Not later than 15 days after the date of the enactment of this Act, the Secretary of Agriculture shall announce the terms and conditions by which producers on a farm may establish 1988 yield with respect to crops that will be harvested for silage and other forage uses.

SEC. 211. PAYMENT LIMITATIONS. 7 USC 1421 note.

(a) LIMITATION.—Subject to subsections (b) and (c), the total amount of payments that a person shall be entitled to receive under one or more of the programs established under this subtitle may not exceed $100,000.

(b) NO DOUBLE BENEFITS.—No person may receive disaster payments under this subtitle to the extent that such person receives a livestock emergency benefit for lost feed production in 1988 under section 606 of the Agricultural Act of 1949, as added by section 101(a) of this Act. Animals.

(c) COMBINED LIMITATION.—No person may receive any payment under this subtitle or benefit under title VI of the Agricultural Act of 1949 for livestock emergency losses suffered in 1988 if such payment or benefit will cause the combined total amount of such payments and benefits received by such person to exceed $100,000. If a producer is subject to the preceding sentence, the person may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949) whether to receive the $100,000 in such payments, or such livestock emergency benefits (not to exceed $50,000), or a combination of payments and benefits specified by the person. Animals.

(d) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this section, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this section.

SEC. 212. DE MINIMIS YIELDS. 7 USC 1421 note.

The Secretary of Agriculture may determine a de minimis yield for each crop eligible for reduced yield disaster payments under this subtitle. The de minimis yield shall be set at a level that will minimize any incentive provided by the prospect of disaster payments to abandon crops that have a value that exceeds the cost of harvesting. In no case may the de minimis yield be less than the amount of production that, when valued at current market prices, equals the average cost of harvesting the crop, as determined by the Secretary. Any producer whose actual yield for a crop is equal to or less than the de minimis yield for such crop shall be considered as having an actual yield of zero for the purpose of calculating any reduced yield disaster payments for such crop under this subtitle.

7 USC 1421 note.
102 STAT. 943

Subtitle B—Forest Crops

SEC. 221. ELIGIBILITY.

(a) DROUGHT LOSS.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 222, to eligible tree farmers that planted tree seedlings in 1987 or 1988 for commercial purposes but lost such seedlings as a result of the drought or related condition in 1988, as determined by the Secretary.

(b) LIMITATION.—An eligible tree farmer shall qualify for assistance under subsection (a) if such tree farmer's tree seedling mortality, as a result of the natural disaster, exceeds 35 percent (adjusted for normal mortality).

SEC. 222. ASSISTANCE.

The assistance provided by the Secretary of Agriculture to eligible tree farmers for losses described in section 221 shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting seedlings lost due to drought or related conditions in 1988 in excess of 35 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient tree seedlings to reestablish the stand.

SEC. 223. LIMITATION ON ASSISTANCE.

(a) LIMITATION.—The total amount of payments that a person shall be entitled to receive under this subtitle may not exceed $25,000, or an equivalent value in tree seedlings.

(b) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this subtitle, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 224. DEFINITION.

As used in this subtitle, the term "eligible tree farmer" means a person that produces annual crops from trees for commercial purposes or that grows trees for harvest for commercial purposes, and owns 1,000 acres or less of such trees.

SEC. 225. DUPLICATIVE PAYMENTS.

The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this subtitle and the forestry incentives program, agricultural conservation program, or other existing Federal program.

102 STAT. 944

7 USC 1421 note.

Subtitle C—Administrative Provisions

SEC. 231. INELIGIBILITY.

(a) GENERAL RULE.—A person that has qualifying gross revenues in excess of $2,000,000 annually, as determined by the Secretary of Agriculture, shall not be eligible to receive any disaster payment or other benefits under this title.

(b) QUALIFYING GROSS REVENUES.—For purposes of this section, the term "qualifying gross revenues" means—

(1) if a majority of the person's annual income is received from farming, ranching, and forestry operations, the gross reve-

nue from the person's farming, ranching, and forestry operations; and

(2) if less than a majority of the person's annual income is received from farming, ranching, and forestry operations, the person's gross revenue from all sources.

SEC. 232. TIMING AND MANNER OF ASSISTANCE.

(a) TIMING OF ASSISTANCE.—(1)(A) Subject to subparagraph (B), the Secretary of Agriculture shall make full disaster assistance available under this title as soon as practicable after the date of the enactment of this Act.

(B) Notwithstanding any other provision of law or of this Act, no payment or benefit provided under this title shall be payable or due until such time as a completed application therefor has been approved.

(2) A person eligible to receive payments under subtitle A shall make application for such payments not later than March 31, 1989, or such later date that the Secretary, by regulation, may prescribe.

(b) MANNER.—The Secretary may make payments available under subtitle A in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

SEC. 233. USE OF COMMODITY CREDIT CORPORATION.

The Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this title.

SEC. 234. REGULATIONS.

The Secretary of Agriculture or the Commodity Credit Corporation, as appropriate, shall issue regulations to implement the provisions of this title as soon as practicable, without regard to the requirement for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

Subtitle D—Sense of Congress

SEC. 241. PURPOSES OF DISASTER PAYMENTS.

Rural areas.
Marketing.
7 USC 1421 note.

It is the sense of Congress that disaster payments made to producers under subtitle A are intended to preserve each producer's livelihood and farming operation, to enable the producer to meet preexisting commitments and obligations, to protect the infrastructure of the United States agricultural production input, supply, marketing, and distribution systems, and to preserve the vitality and financial health of rural communities. 102 STAT. 945

TITLE III—OTHER EMERGENCY PROVISIONS

Subtitle A—Commodity Stock Adjustment

SEC. 301. SOYBEANS, SUNFLOWERS, AND COTTONSEED AND SUNFLOWER SEED OIL.

(a) PLANTING OF SOYBEANS AND SUNFLOWERS ON PERMITTED ACRES.—(1) Effective for the 1989 and 1990 crops, section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464) is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any other provision of this Act—

"(A)(i) Effective for the 1989 crops, the Secretary shall permit, subject to subparagraph (B), producers on a farm to plant soybeans or sunflowers on a portion (not less than 10 percent nor more than 25 percent) of the producers' 1989 wheat, feed

grain, upland cotton, extra long staple cotton, and rice permitted acreage, as determined by the Secretary.

"(ii) Effective for the 1990 crops, if the Secretary determines that there will be insufficient supplies of soybeans, the Secretary may permit, subject to subparagraph (B), the producers on a farm to plant soybeans or sunflowers on a portion (not less than 10 percent nor more than 25 percent) of the farm's 1990 wheat, feed grain, upland cotton, extra long staple cotton, and rice permitted acreage, as determined by the Secretary.

"(B)(i) For the 1989 crops and, if necessary, the 1990 crops, the Secretary shall establish a sign-up period during which the producers on a farm, participating in the wheat, feed grain, upland cotton, extra long staple cotton, or rice price support and production adjustment program, must state their intentions regarding use of the increased planting provision under subparagraph (A).

"(ii) After termination of the sign-up period under clause (i), the Secretary shall estimate whether, based on the additional soybean and sunflower plantings for the crop, the average market price for that crop of soybeans will be below 115 percent of the loan rate established for the previous crop of soybeans.

"(iii) If the Secretary estimates that the average market price for the crop of soybeans will be below 115 percent of such loan rate, the Secretary shall reduce the percentage of permitted acreage on the farm that may be planted to soybeans and sunflowers to a level, or prohibit such plantings, as necessary to ensure that the average soybean market price does not fall below 115 percent of such loan rate.

"(iv) For each of the 1989 and 1990 crops, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth the reasons for permitting or not permitting producers to plant soybeans or sunflowers on permitted acreage and any reduction in the permitted planting percentage under this subparagraph.

102 STAT. 946

"(C)(1) For the purposes of determining the farm acreage base or the crop acreage bases for the farm, any acreage on the farm on which soybeans or sunflowers are planted under this paragraph shall be considered to be planted to the program crop for which soybeans or sunflowers are substituted.

Loans.

"(2) The Secretary may not make program benefits other than soybean or sunflower seed price support loans and purchases available to producers with respect to acreage planted to soybeans or sunflowers under paragraph (1) and shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased due to such plantings.".

Marketing.
Loans.
7 USC 1446 note.

(2) Not earlier than February 1, 1989, and not later than March 1, 1989, with respect to the 1989 crop of soybeans, and not later than September 1, 1989, with respect to the 1990 crop of soybeans, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth the reasons for implementing or not implementing the soybean marketing loan program authorized under section 201(i)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)(3)) for such crop. Such statement shall include—

(A) an economic evaluation of current soybean markets, foreign and domestic;

(B) the current foreign soybean production statistics;

Exports.

(C) the United States soybean export market situation and outlook;

(D) the computation of the prevailing world market price for soybeans, as described in section 201(i)(3)(B) of such Act;

(E) the fiscal effect of the implementation of the marketing loan for soybeans; and

(F) such other factors as the Secretary considers appropriate.

(b) COTTONSEED AND SUNFLOWER SEED OIL.—(1) The Secretary of Agriculture shall determine if the price of cottonseed or cottonseed products is adversely affected by the amendment made by subsection (a)(1). If the Secretary determines that any such price has been adversely affected, the Secretary shall support the price of cottonseed and cottonseed products through loans, purchases, export assistance, or any other form of assistance, as necessary to offset such adverse effect. 7 USC 1464 note. Loans. Exports.

(2)(A) Effective for the fiscal years ending September 30, 1989, and September 30, 1990, the Secretary of Agriculture shall use funds available under section 32 of Public Law 320, Seventy-fourth Congress (7 U.S.C. 612c), to purchase sunflower seed oil and cottonseed oil to facilitate additional export sales of sunflower seed oil and cottonseed oil at competitive prices, as necessary and appropriate to enable United States producers to compete with producers in other countries in world markets. Funds may be made available under this subparagraph only to the extent authorized in advance in appropriations Acts; and such funds shall be in addition to funds made available for the purchase of sunflower seed oil under section 637 of the rural development, agriculture, and related agencies appropriations in section 101(k) of Public Law 100-202 (101 Stat. 1329-357). Exports.

(B) To the extent practicable, facilitation of cottonseed oil exports shall be accomplished through the use of authorities available to the Secretary other than the authority granted in subparagraph (A). 102 STAT. 947

(3) Except as otherwise provided in paragraph (2)(A), the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subsection.

SEC. 302. OATS.

(a) FARM ACREAGE BASES.—Section 503 of the Agricultural Act of 1949 (7 U.S.C. 1463) is amended by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding any other provision of this Act, effective for each of the 1989 and 1990 crops, if the acreage limitation percentage established for a crop of feed grains under section 105C(f) is 12.5 percent or less, the Secretary shall permit producers on a farm to designate any portion of the farm acreage base (excluding any portion designated as soybean acreage base) for the crop year as acreage base established for oats. For the purposes of determining the farm acreage base or the crop acreage bases for the farm, any acreage on the farm that is designated as oats base under this paragraph and planted to oats for harvest in 1989 or 1990 shall be considered to be planted to the program crop for which oats are substituted.

"(2) The Secretary shall not make program benefits other than benefits available under the program established for oats available to producers with respect to acreage planted to oats under paragraph (1), and shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased due to such plantings.".

(b) SENSE OF CONGRESS.—It is the sense of Congress that if the acreage limitation requirement established for the 1989 or 1990 crop of feed grains under section 105C(f) of the Agricultural Act of 1949 is more than 12.5 percent, the Secretary of Agriculture should establish the lowest possible acreage limitation requirement for such crop of oats under section 105C(f) if market imbalances for barley and oats exist. 7 USC 1444e note.

SEC. 303. PRODUCER RESERVE PROGRAM FOR WHEAT AND FEED GRAINS.

(a) REPAYMENT OF LOANS.—Effective for the 1988 marketing year for wheat or feed grains, once the market price described in clause (5) of the third sentence of subsection (b) of section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) has been reached at any time during such marketing year with respect to such commodity, producers may repay loans made under section 110 for such 7 USC 1445e note.

commodity during the remainder of such marketing year without the payment of a penalty, regardless of the then current market price.

(b) REDEMPTION OF GENERIC CERTIFICATES.—Effective only for the 1988 marketing years for wheat and feed grains, section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) is amended by adding at the end thereof the following new subsection:

Loans.

"(j) Notwithstanding any other provision of law, if a producer has substituted purchased or other commodities for the commodities originally pledged as collateral for a loan made under this section, the producer may repay the loan using a generic commodity certificate that may be exchanged for commodities owned by the Commodity Credit Corporation, if the substitute commodities have been pledged as loan collateral and redeemed only within the same county.".

SEC. 304. TOBACCO AND PEANUTS.

(a) TRANSFER AUTHORITY.—(1) Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended by adding at the end thereof the following new subsection:

Effective date.
Contracts.

"(k)(1) Notwithstanding any other provision of this section, the Secretary may permit, after July 1 of any crop year, the lease and transfer of burley tobacco quota assigned to a farm if—

"(A) the planted acreage of burley tobacco on the farm to which the quota is assigned is determined by the Secretary to be sufficient to produce the effective farm marketing quota under average conditions; and

"(B) the farm's expected production of burley tobacco is less than 80 percent of the farm's effective marketing quota as a result of a natural disaster condition.

Contracts.

"(2) Any lease and transfer of quota under this subsection may be made to any other farm within the same State in accordance with regulations issued by the Secretary.".

(2) Section 358a(k)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358a(k)(1)), as effective for the 1986 through 1990 crops of peanuts, is amended by adding at the end thereof the following: "In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.".

7 USC 1314e note.

(b) QUOTA ADJUSTMENT.—Notwithstanding any other provision of law, if a producer has produced burley tobacco in 1988 in an amount less than the producer's farm marketing quota for 1988 due to natural disaster, the Secretary may adjust the producer's burley tobacco farm marketing quota for the 1989 crop, as established under section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314(e)), by adding the accumulated undermarketings of the basic quota for 1988 crop, including undermarketings of leased quota, to the producer's basic quota for the 1989 crop, except that such adjustment may not exceed 125 percent of the producer's basic quota.".

Subtitle B—Disaster Credit and Forbearance

7 USC 1961 note.

SEC. 311. EMERGENCY LOANS.

Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)) shall not apply to a person who otherwise would be eligible for an emergency loan under subtitle C of such Act (subject to the person's compliance with the requirements of section 207 of this Act), if such eligibility is the result of damage to an annual crop planted for harvest in 1988.

SEC. 312. 1989 FARM OPERATING LOANS. 7 USC 1941 note.

(a) DIRECT CREDIT.—To the maximum extent practicable, the Secretary of Agriculture shall ensure that direct operating loans made or insured under subtitle B of the Consolidated Farm and Rural Development Act for 1989 crop production are made available to farmers and ranchers suffering major losses due to drought, hail, excessive moisture, or related condition in 1988, as authorized under existing law and under regulations of the Secretary that implement the objective of enabling farmers and ranchers to stay in business. 102 STAT. 949

(b) LOAN GUARANTEES.—(1) Notwithstanding any other provision of law, the Secretary of Agriculture shall make available in the fiscal year ending September 30, 1989, guarantees to commercial or cooperative lenders for loans under subtitle B of the Consolidated Farm and Rural Development Act, to refinance and reamortize 1988 operating loans, or 1988 or 1989 installments due and payable on real estate debt, farm equipment or building (including storage facilities) debt, livestock loans, or other operating debt, of farmers and ranchers that otherwise cannot be repaid due to major losses incurred by such farmers or ranchers as a result of drought, hail, excessive moisture, or related condition in 1988. Real property. Animals.

(2) Each fiscal year 1989 guaranteed loan for 1988 natural disaster purposes, as described in paragraph (1), shall contain terms and conditions governing the reamortization of the debt of the farmer or rancher that will provide the farmer or rancher a reasonable opportunity to continue to receive new operating credit while repaying the guaranteed loan, as determined by the Secretary.

(3) Notwithstanding any other provision of law, any person eligible to receive payments under subtitle A of title II of this Act shall be deemed eligible to have guaranteed, in accordance with this subsection, loans made to such person by a commercial or cooperative lender to refinance installment payments that are or become due and payable during 1988 or 1989, as described in paragraph (1), except that, to be deemed eligible to have such loan guaranteed, the person must otherwise be current in the person's obligation to the commercial or cooperative lender that agrees to accept the guarantee in consideration of allowing the person to make the 1988 or 1989 payment or installment over a period of time not to exceed 6 years from the original due date of such payment or installment, and must otherwise meet the criteria for guaranteed loan borrowers under subtitle B of the Consolidated Farm and Rural Development Act established by the Secretary.

(c) USE OF ACIF FUNDS.—For purposes of providing guaranteed loans in accordance with subsection (b) of this section, in addition to funds otherwise available, the Secretary may use any funds available from the Agricultural Credit Insurance Fund during fiscal years 1988 or 1989 for emergency insured and guaranteed loans under subtitle C of the Consolidated Farm and Rural Development Act to meet the needs resulting from natural disasters: *Provided*, That funds available from such Fund first shall be used to satisfy the level of assistance estimated by the Secretary to meet the needs of persons eligible for emergency disaster loans.

SEC. 313. FORBEARANCE AND RESTRUCTURING FOR FARM LOANS.

(a) FARMERS HOME ADMINISTRATION.—It is the sense of Congress that the Secretary of Agriculture should, with respect to farmers and ranchers who suffer major losses due to drought, hail, excessive moisture, or related condition in 1988— 7 USC 1981a note.

(1) exercise forbearance in the collection of interest and principal on direct farmer program loans under the Consolidated Farm and Rural Development Act outstanding for such farmers and ranchers;

(2) expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act of 1987 and similar provisions of law for such farmers and ranchers; and 102 STAT. 950

(3) encourage commercial lenders participating in guaranteed farmer lending programs under the Consolidated Farm and Rural Development Act to exercise forbearance before declaring loans to such farmers and ranchers under such programs in default.

12 USC 2252 note.

(b) FARM CREDIT ADMINISTRATION.—It further is the sense of Congress that the Farm Credit Administration should in its oversight of Farm Credit System institutions, with respect to farmers and ranchers who suffer major losses due to drought, hail, excessive moisture, or related condition in 1988—

(1) ensure that Farm Credit System institutions exercise forbearance in the collection of principal and interest on loans outstanding to such farmers and ranchers;

(2) expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act of 1987 and related provisions of law for such farmers and ranchers; and

(3) encourage other lenders participating with Farm Credit System institutions in mutual loan agreements to exercise forbearance before declaring loans to such farmers and ranchers in default.

Subtitle C—Conservation Assistance

16 USC 3832 note. Contracts.

SEC. 321. NEW CONSERVATION MEASURES.

(a) IN GENERAL.—(1) In the case of an owner or operator of land who has entered into a conservation reserve program contract under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) and harvests hay during the 1988 crop year on acreage subject to such contract as authorized by the Secretary of Agriculture, the Secretary may not reduce the amount of rental payments made to such owner or operator as the result of such harvesting to the extent that the owner or operator—

Water. Wildlife.

(A) carries out additional conservation practices, approved by the Soil Conservation Service in consultation with appropriate Federal and State agencies, to enhance soil, water, and wildlife conservation on or in the vicinity of lands subject to such contract; and

(B) pays the costs of carrying out such practices.

(2) The amount of the reduction prohibited under paragraph (1) shall equal one-half of the amount paid by the owner or operator to cover the costs of carrying out the conservation practices.

(b) CONSERVATION PRACTICES.—For purposes of subsection (a), the term "conservation practices" includes—

(1) establishment of permanent shelterbelts and windbreaks;

(2) restoration of wetlands;

(3) establishment of wildlife food plots; or

(4) planting of trees.

SEC. 322. CONSERVATION RESERVE ENHANCEMENT PROGRAMS.

Effective beginning with the 1988 crop year, subsection (f) of section 1234 of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended by adding at the end thereof the following new paragraph:

102 STAT. 951

Contracts. State and local governments.

"(4) The provisions of this subsection that limit payments to any person, and section 1305(d) of the Agricultural Reconciliation Act of 1987, shall not be applicable to payments received by a State, political subdivision, or agency thereof in connection with agreements entered into under a special conservation reserve enhancement program carried out by that entity that has been approved by the Secretary. The Secretary may enter into such agreements for payments to States, political subdivisions, or agencies thereof that the Secretary determines will advance the purposes of this subtitle.".

Subtitle D—Rural Businesses

SEC. 331. DISASTER ASSISTANCE FOR RURAL BUSINESS ENTERPRISES. 7 USC 1929a note.

(a) LOAN GUARANTEES.—The Secretary of Agriculture shall guarantee loans made in rural areas to public, private, or cooperative organizations, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to any other business entities to assist them in alleviating distress caused to such entities, directly or indirectly, by the drought, hail, excessive moisture, or related condition in 1988, and shall guarantee loans made in rural areas to such entities that refinance or restructure debt as a result of losses incurred, directly or indirectly, because of such natural disasters in 1988. Indians.

(b) ELIGIBLE LOANS.—Loans that may be guaranteed under this section are loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, insurance company, or other legally organized lending agency. Banks and banking.

(c) LENDING LIMITS.—(1) No guarantee under this section may exceed 90 percent of the principal amount of the loan and guarantees made on loans to any eligible borrower may not exceed $500,000. Loans.

(2) The total amount of loan guarantees that may be made under this section shall not exceed $200,000,000.

(d) USE OF THE RURAL DEVELOPMENT INSURANCE FUND.—The Secretary shall use the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act for the purposes of discharging the Secretary's obligations under this section.

SEC. 332. SALE OF CORN TO ETHANOL PRODUCERS. 7 USC 1427 note.

(a) IN GENERAL.—Except as otherwise provided in this section and notwithstanding section 110(f) of the Agricultural Act of 1949 (7 U.S.C. 1445e(f)) or any other provision of law, if, during any month commencing after July 31, 1988, the average corn price (as determined under subsection (d)) exceeds the fuel conversion price (as defined in section 212 of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4005)), the Secretary of Agriculture may make available for sale to domestic producers of ethanol fuel, for the production of ethanol, not more than 12,000,000 bushels per month of corn owned by the Commodity Credit Corporation.

(b) PRICE.—Corn shall be sold under this section at a price that is not more than such fuel conversion price, except that such price shall not be less than 110 percent of the basic county loan rate for corn, prior to any adjustment made under section 105C(a)(3) of the Agricultural Act of 1949 (7 U.S.C. 1444e(a)(3)).

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(c) MAXIMUM AMOUNT.—The total quantity of corn sold to any ethanol producer under this section may not exceed 2,000,000 bushels per month.

(d) AVERAGE CORN PRICE.—The average corn price under this section shall be determined by the Secretary based on the average corn price in markets used for determinations made under clause (5) of the third sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)).

(e) TERMS.—(1) The Secretary may not make corn or other commodities available under this section to any domestic producer of ethanol that uses in excess of 30,000,000 bushels of corn or comparable commodity annually in producing ethanol.

(2) Domestic producers of ethanol fuel purchasing corn under this section shall agree not to resell such corn and to make available a quantity of feed byproducts equivalent to the quantity processed from such corn for sale to domestic livestock producers and feeders in a manner and subject to such terms and conditions as are approved by the Secretary. Animals.

(f) TERMINATION.—The Secretary shall terminate any program established under this section no later than September 1, 1989. The

Secretary shall terminate the program on an earlier date if the Secretary determines that—

(1) such program is no longer necessary to maintain the economic viability of the ethanol industry; or

Animals.

(2) a sufficient supply of corn otherwise would not be available to fulfill estimated obligations of the Commodity Credit Corporation under emergency livestock feeding programs during the subsequent 180-day period.

(g) OTHER COMMODITIES.—The Secretary may, at the request of a domestic producer of ethanol, substitute other feed grains (such as grain sorghum) for corn on an equitable basis, taking into account variations in the value of such commodities in the production of ethanol.

SEC. 333. SURVEY OF AGRIBUSINESS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall—

(1) conduct a survey of rural business and enterprises, including grain handling and storage facilities, in the United States whose activities involve or are directly related to the production, processing, or marketing of agricultural commodities or products, or to servicing the business and home needs of United States farmers and ranchers, to determine the extent that such businesses are being adversely affected, directly or indirectly, by drought, hail, excessive moisture, or related condition in 1988; and

Reports.

(2) submit a report describing the results of such survey to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 334. FORWARD CONTRACTING REPORT.

(a) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the financial effect that forward contracting, hedging, and associated margin requirements for wheat, feed grains, and soybeans during the recent drought-related period of price volatility have had on producers and on grain marketers, particularly local elevators and intermediaries.

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(b) CONTENTS OF REPORT.—In the report, the Secretary shall include a discussion of—

(1) the extent to which currently planted or stored crops are subject to cash forward contracts or otherwise are hedged, and what portion of such forward contracts are in danger of being defaulted on as a result of drought-related crop losses;

(2) the extent to which local grain elevators may experience severe financial stress due to defaults on cash forward contracts or due to margin requirements on futures market positions;

(3) the extent to which producers have been able to renegotiate forward contracts in light of drought-related changes in economic conditions;

(4) the extent to which hedging and forward contracting practices may produce unusual demands for credit among farm producers and marketers in light of drought-related conditions; and

(5) such other areas of related concern as the Secretary may find appropriate.

(c) IMMEDIATE NOTIFICATION.—The Secretary shall immediately notify, in advance of the report, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate if the Secretary finds, in the course of the study required under this section, that serious economic or financial problems related to forward contracting, hedging, and margin requirements for grains are likely to arise.

(d) CONSULTATION.—The Secretary shall consult with the Chairman of the Commodity Futures Trading Commission on issues concerning futures markets that arise in the course of the study required under this section.

SEC. 335. RURAL ECONOMIC DEVELOPMENT RESPONSE TO THE DROUGHT.

(a) FINDINGS.—Congress finds that—

(1) the disastrous drought of 1988 is adversely affecting a large number of States, with serious economic consequences for family farmers;

(2) the harm caused by the drought is not limited to farmers, but extends to each rural community whose economic viability is being devastated;

(3) rural businesses and financial institutions are already experiencing the negative effects of decreased sales, and they anticipate severe problems over the next year, due to crop failures and the unavailability of credit;

(4) local rural governments, whose fiscal bases depend on tax revenues from agriculture and agriculture-related businesses, will experience, as a result of the effects of the drought, difficulties in providing services that are important to the quality of life for rural residents;

(5) as a result of the effects of the drought, significant savings will accrue to the Federal budget due to reduced deficiency payments and storage payments, substantially in excess of the funds allocated by this Act; and

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(6) assistance to farmers, while essential, represents only the first stage of a comprehensive response to the serious national problems created by the drought.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) budgetary savings that accrue from the effects of the drought and other economic circumstances should, to the maximum extent possible, be dedicated to relief for farmers and agricultural workers and to assist rural businesses and communities in promotion of rural economic development;

(2) action should be taken to establish comprehensive Federal rural economic programs that address the needs of rural businesses and governments; and

(3) rural development programs should stress efforts to cooperate with and support local decisionmaking; promote market-based capital formation; create a more equitable and dependable partnership between the Federal Government and other levels of government; provide Federal initiatives for improving the quality of rural health care, child care, and education; and foster better understanding of the effect of Federal spending, tax, trade, and regulatory decisions on rural communities.

Subtitle E—Agricultural Exports

SEC. 341. SENSE OF CONGRESS—AGRICULTURAL EXPORTS.

(a) FINDINGS.—Congress finds that—

(1) the disastrous drought of 1988 is causing substantial agricultural crop losses and is putting an enormous financial burden on United States farmers and their families;

(2) the Food Security Act of 1985 (A) recognized that agricultural export markets are extremely important in ensuring the economic recovery and future success of United States farmers, their families, and rural communities, and (B) established several programs to develop and expand agricultural export markets and help restore the United States share of international agricultural trade;

(3) the programs under the Food Security Act of 1985, such as the export enhancement program and the targeted export assistance program, have been successful to date and have served to increase agricultural exports;

(4) United States agricultural exports make a substantial contribution to reducing our Nation's international trade deficit;

(5) it is important that the United States be perceived as being a reliable supplier of agricultural commodities and products;

(6) imposing embargoes on, or taking other steps to reduce the levels of, the exports of agricultural commodities or products in wake of the drought will undermine the gains made since 1985 in securing markets for United States agricultural commodities and products abroad, by allowing foreign competitors opportunity to move into our international markets; and

(7) imposing embargoes on, or taking other steps to reduce the levels of, exports of agricultural commodities and products would jeopardize the progress in strengthening our agricultural export markets made by export assistance programs under the Food Security Act of 1985.

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(b) SENSE OF CONGRESS.—It is the sense of Congress that the Government should not take any action that (1) will further exacerbate the already disastrous circumstances for United States agriculture resulting from the drought by imposing, or facilitating the imposition of, embargoes or other limitations that reduce exports of agricultural commodities and products, or (2) otherwise jeopardize United States foreign agricultural markets or give our trading partners reason to believe United States farmers have become unreliable suppliers of agricultural commodities and products.

Subtitle F—Food Prices

SEC. 351. SENSE OF CONGRESS—FOOD PRICES.

(a) FINDINGS.—Congress finds that—

(1) the disastrous drought of 1988 is causing substantial agricultural crop losses and is placing enormous financial burdens on livestock, poultry, and dairy producers;

(2) in spite of the effects of the drought, the United States continues to have ample supplies of grain for human and animal consumption through the upcoming crop year;

(3) the Department of Agriculture projects that even if the drought continues, food prices are not expected to increase significantly due to the drought; and

(4) in view of these circumstances, no person in the United States should have to pay unwarranted, unjustified, or excessive food prices and that higher food prices, irrespective of their cause, affect those least able to pay the most.

Reports.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Department of Agriculture, in cooperation with other Federal agencies and State and local agencies where appropriate, should monitor, study, and report to Congress about food price increases at wholesale and retail levels during the coming months, to ensure that no unwarranted food price increases are implemented and that any necessary increases are commensurate with commodity price increases resulting from the drought.

SEC. 352. STUDY OF EFFECT OF DROUGHT ON FOOD PRICES.

Hunger.

(a) SURVEY.—The Secretary of Agriculture shall conduct a survey of food and commodity prices as of December 31, 1988, to determine the effects of the drought and related conditions in 1988 on recipients of Federal nutrition and hunger benefits.

(b) REPORT.—Not later than March 1, 1988, the Secretary shall submit a report to Congress on the results of the survey required under subsection (a), including—

(1) an analysis of the adequacy of benefits under Federal nutrition and hunger programs with respect to any food price inflation that has occurred because of the drought or related conditions in 1988; and

(2) recommendations for any actions that may be taken by the Secretary or Congress to address problems identified in such survey.

TITLE IV—WATER-RELATED ASSISTANCE

Subtitle A—Water Management for Rural Areas

SEC. 401. WATER MANAGEMENT FOR RURAL AREAS.

7 USC 2204c.
Corporations.
Indians.
State and local governments.

(a) IN GENERAL.—The Secretary of Agriculture is authorized, directly or in coordination with any other Federal agency, entity, corporation, department, unit of State or local government, cooperative, confederation, individual, public or private organization, Indian tribe, or university, to—

(1) conduct research and demonstration projects;

Research and development.

(2) provide technical assistance and extension services;

(3) make grants, loans, and loan guarantees; and

Grants.
Loans.

(4) provide other forms of assistance, for the purpose of helping rural areas make better and more efficient use of water resources and to alleviate problems arising in such areas from droughts or lack of water.

(b) ACTIVITIES.—The Secretary is authorized to provide assistance under this section for the promotion or establishment of irrigation, watersheds, and other water management and drought management activities, including water transmission, application, and activation.

(c) COOPERATION.—In implementing this section, the Secretary—

(1) should address the general, special, and unique problems of water management existing in rural areas;

(2) may take action independently or in cooperation with Federal, State, public, or private entities and agencies; and

(3) shall cooperate with—

(A) cooperatives, public or private organizations, confederations, authorities, or other entities (including such entities that may be organized under multiple State agreements or compacts and entities created under State law) to carry out projects authorized under this section; and

Compacts between States.

(B) water, watershed, and sewer authorities, rural electric cooperatives, Federal agencies, and other State or local governments or agencies.

State and local governments.

(d) REGULATIONS.—(1) The Secretary shall issue regulations to carry out this section.

(2) Such regulations shall—

(A) specify the terms and conditions that the entities described in subsections (a) and (c) must meet in order to participate in programs carried out under this section;

(B) establish a procedure under which entities described in subsections (a) and (c) may apply for assistance under this section; and

(C) foster cooperation between such entities and other Federal, State, or local agencies for the purposes of carrying out the provisions of this section.

(e) DEFINITION.—As used in this section, the term "university" means—

(1) a land grant university established under the Act of July 2, 1862 (known as the "First Morrill Act"; 12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.);

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(2) a land grant university established under the Act of August 30, 1890 (known as the "Second Morrill Act"; 26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.);

(3) the Tuskegee Institute; and

(4) any other support research organization.

Appropriation authorization.

(f) FUNDING.—(1) There are authorized to be appropriated each fiscal year such sums as are necessary to carry out this section.

(2) The Secretary is authorized to accept funds from non-Federal sources to carry out the activities authorized by this section.

(g) NO WAIVERS.—Nothing in this section shall authorize the waiver of a cost-share requirement under a program established under any other provision of law.

43 USC 502 note.

Subtitle B—Emergency Drought Authority

PART I—RECLAMATION STATES DROUGHT ASSISTANCE

Reclamation States Drought Assistance Act of 1988.

Conservation.

SEC. 411. SHORT TITLE.

This part may be cited as the "Reclamation States Drought Assistance Act of 1988".

SEC. 412. ASSISTANCE DURING DROUGHT.

The Secretary of the Interior, acting under the authorities of the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof) and other appropriate authorities of the Secretary shall—

Indians.

(1)(A) perform studies to identify opportunities to augment, make use of, or conserve water supplies available to Federal reclamation projects and Indian water resource developments, which studies shall be completed no later than March 1, 1990; and

(B) consistent with existing contractual arrangements and State law, and without further authorization, undertake construction, management, and conservation activities that will mitigate or can be expected to have an effect in mitigating losses and damages resulting from drought conditions in 1987, 1988, or 1989, which construction shall be completed by December 31, 1989; and

(2) assist willing buyers in their purchase of available water supplies from willing sellers and redistribute such water based upon priorities to be determined by the Secretary consistent with State law, with the objective of minimizing losses and damages resulting from drought conditions in 1987, 1988, and 1989.

SEC. 413. AVAILABILITY OF WATER ON A TEMPORARY BASIS.

Contracts.

(a) GENERAL AUTHORITY.—The Secretary of the Interior may make available, by contract, consistent with existing contracts or agreements and State law, water or canal capacity at existing Federal reclamation projects to water users and others, on a temporary basis to mitigate losses and damages resulting from drought conditions in 1987, 1988, and 1989.

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(b) CONTRACTS.—Any contract signed under this section shall provide that—

(1) the price for the use of such water shall be at least sufficient to recover all Federal operation and maintenance costs, and an appropriate share of capital costs, except that, for water delivered to a landholding in excess of 960 acres of class I lands or the equivalent thereof for a qualified recipient and 320 acres of class I lands or the equivalent thereof for a limited recipient, the cost of such water shall be full cost (as defined in section 202(3)(A) of Public Law 97-293, 43 U.S.C. 390bb) for those acres in excess of 960 acres or 320 acres, as appropriate;

(2) the lands not now subject to reclamation law that receive temporary irrigation water supplies under this section shall not become subject to the ownership limitations of Federal reclamation law because of the delivery of such temporary water supplies;

(3) the lands that are subject to the ownership limitations of Federal reclamation law shall not be exempted from those limitations because of the delivery of such temporary water supplies; and

(4) the contract shall terminate no later than December 31, 1989. Termination date.

(c) FISH AND WILDLIFE.—The Secretary may make available water for the purposes of protecting fish and wildlife resources, including mitigating losses that occur as a result of drought conditions.

SEC. 414. EMERGENCY LOAN PROGRAM.

The Secretary of the Interior may make loans to water users for the purposes of undertaking management, conservation activities, or the acquisition and transportation of water consistent with State law, that can be expected to have an effect in mitigating losses and damages resulting from drought conditions in 1987, 1988, and 1989. Such loans shall be made available under such terms and conditions as the Secretary deems appropriate. Section 203(a) of the Reclamation Reform Act of 1982 (Public Law 97-293; 43 U.S.C. 390cc) shall not apply to any contract to repay such loan. Transportation. Contracts.

SEC. 415. INTERAGENCY COORDINATION.

The program established by this part, to the extent practicable, shall be coordinated with emergency and disaster relief operations conducted by other Federal and State agencies under other provisions of law. The Secretary of the Interior shall consult such other Federal and State agencies as he deems necessary. Other Federal agencies performing relief functions under other Federal authorities shall provide the Secretary with information and records that the Secretary deems necessary for the administration of this part. Records.

SEC. 416. REPORT.

Not later than March 1, 1990, the Secretary of the Interior shall submit a report and recommendations to the President and Congress on—

(1) expenditures and accomplishments under this part;

(2) legislative and administrative recommendations for responding to droughts and drought related problems in the Reclamation States; and

(3) structural and non-structural measures to mitigate the effects of droughts.

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SEC. 417. CARRYOVER STORAGE AND WATER, NEW MELONES UNIT, CENTRAL VALLEY PROJECT, CALIFORNIA.

The first undesignated paragraph under the heading "San Joaquin River Basin" in section 203 of the Flood Control Act of 1962 (Public Law 87-874, 76 Stat. 1191) is amended by inserting before the last period the following: ": *And provided further*, That the Secretary of the Interior is authorized to make available to the Oakdale and South San Joaquin irrigation districts, at the current contract rate, unallocated storage of such districts carried over from the previous year".

SEC. 418. INITIATION AND DEADLINE OF EMERGENCY DROUGHT PROGRAM.

(a) LIMITATION.—The programs and authorities established under this part shall become operative in any Reclamation State only after—

(1) the Governor of that State has declared a drought emergency; and

(2) the affected area is declared eligible for Federal disaster relief under applicable rules and regulations.

(b) TERMINATION.—The programs and authorities established under this part shall terminate on December 31, 1989, unless otherwise specifically stated.

PART 2—WATER PROJECT

SEC. 421. CENTRAL VALLEY PROJECT WATER RELEASES.

Fish and fishing.

The Secretary of the Interior is authorized to install a temperature control curtain as a demonstration project at Shasta Dam, Central Valley project, California, at a cost not to exceed $5,500,000. The purpose of the demonstration project is to determine the effectiveness of the temperature control curtain in controlling the temperature of water releases from Shasta Dam, so as to protect and enhance anadromous fisheries in the Sacramento River and San Francisco Bay/Sacramento-San Joaquin Delta and Estuary

PART 3—AUTHORIZATION AND SAVINGS CLAUSE

SEC. 431. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated a total amount not to exceed $25,000,000 for section 412(1)(B) and section 414 of this subtitle.

(b) Unless otherwise specified, there are authorized to be appropriated such sums as may be necessary to carry out the remaining provisions of this subtitle.

SEC. 432. SAVINGS CLAUSE.

Nothing in this subtitle shall be construed as limiting or restricting the power and authority of the United States or—

Public lands.

(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on public lands;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

Compacts between States.

(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two States and the Federal Government;

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(4) as superseding, modifying, or repealing, except as specifically set forth in this subtitle, existing law applicable to the various Federal agencies; or

Compacts between States.

(5) as modifying the terms of any interstate compact.

TITLE V—MIGRANT OR SEASONAL FARMWORKER ASSISTANCE

SEC. 501. EMERGENCY ASSISTANCE PAYMENTS TO MIGRANT FARMWORKER HOUSEHOLDS.

(a) EXCLUSION OF ASSISTANCE.—Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended by—

(1) striking out "(E)" and inserting in lieu thereof "(F)";

(2) striking out "(F)" and inserting in lieu thereof "(G)"; and

(3) inserting the following new subparagraph after subparagraph (D):

"(E) emergency assistance for migrant or seasonal farmworker households during the period such households are in the job stream;".

(b) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect on the date of enactment of this Act. 7 USC 2014 note.

(2) The amendments made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 to any household for any month beginning before the effective period of this section begins.

SEC. 502. PRORATING BENEFITS OF MIGRANT OR SEASONAL FARMWORKER HOUSEHOLDS.

(a) CERTIFICATION.—Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by—

(1) striking out "and (2)" and inserting "(2)"; and

(2) inserting before the period at the end thereof the following: ", and (3) in the case of a migrant or seasonal farmworker household, the first month for which allotment is issued to a household that applies following any period of more than 30 days in which such household was not participating in the food stamp program after previous participation in such program".

(b) EFFECTIVE DATE AND APPLICATION.—(1) The amendments made by this section take effect on the date of enactment of this Act. 7 USC 2017 note.

(2) The amendments made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 to any household for any month beginning before the effective period of this section begins.

SEC. 503. ASSISTANCE TO LOW-INCOME AGRICULTURAL WORKERS. 29 USC 1672 note.

Notwithstanding any other provision of law, for necessary services to be provided by agencies that have received funds under the Job Training Partnership Act to low-income agricultural workers who have been adversely affected by the drought of 1988, not to exceed $5,000,000 shall be made available to be derived by transfer from the Disaster Relief Program of the Federal Emergency Management Agency. The funds shall be distributed by the Secretary of Labor within 30 days after the date of the enactment of this Act based on an assessment of the number of low-income agricultural workers in each grantee's service delivery area who have lost income or are unable to work due to the drought, including those workers who have stayed at home in anticipation of work shortages. Emergency services to be provided under this section may include all types of assistance that the Secretary determines to be necessary. For the purposes of this section, a low-income agricultural worker receiving assistance must meet the income eligibility requirements of the section 402 program under the Job Training Partnership Act.

Approved August 11, 1988.

LEGISLATIVE HISTORY—H.R. 5015 (S. 2631):

HOUSE REPORTS: No. 100-800, Pt. 1 (Comm. on Agriculture) and No. 100-830 (Comm. of Conference).

SENATE REPORTS: No. 100-426 accompanying S. 2631 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 134 (1988):

July 28, 29, H.R. 5015 considered and passed House. S. 2631 considered and passed Senate; proceedings vitiated and H.R. 5015, amended, passed in lieu.

Aug. 8, Senate agreed to conference report.

Aug. 9, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Aug. 11, Presidential remarks.

102 STAT. 989 Public Law 100-399
100th Congress

An Act

Aug. 17, 1988
[H.R. 3980]

To make technical corrections to the agricultural credit laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Agricultural Credit Technical Corrections Act of 1988.
Banks and banking.
Rural areas.
Securities.
12 USC 2001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Credit Technical Corrections Act of 1988".

SEC. 2. REFERENCES.

(a) FARM CREDIT ACT OF 1971.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

(b) THE 1987 ACT.—As used in this Act, the term "the 1987 Act" means the Agricultural Credit Act of 1987.

TITLE I—AMENDMENTS RELATED TO TITLE I OF THE 1987 ACT

SEC. 101. AMENDMENTS RELATED TO SECTION 101 OF THE 1987 ACT.

12 USC 2161.

(a) Section 4.9A, as in effect immediately before the enactment of the 1987 Act, is hereby repealed.

12 USC 2162.

(b) Section 4.9A(a), as added by section 101 of the 1987 Act, is amended by striking out the second sentence.

(c) Section 4.9A(c), as added by section 101 of the 1987 Act, is amended to read as follows:

"(c) INABILITY TO RETIRE STOCK AT PAR VALUE.—If an institution is unable to retire eligible borrower stock at par value due to the liquidation of the institution, the receiver of the institution shall retire such stock at par value as would have been retired in the ordinary course of business of the institution, and—

"(1) during the 5-year period beginning on the date of the enactment of the Agricultural Credit Act of 1987, the Assistance Board shall direct the Financial Assistance Corporation to provide the receiver with sufficient funds to enable the receiver to carry out this subsection; and

"(2) after such 5-year period, the Farm Credit System Insurance Corporation shall provide the receiver with sufficient funds from the Farm Credit Insurance Fund to enable the receiver to carry out this subsection.".

(d) Section 4.9A(d)(2)(B), as added by section 101 of the 1987 Act, is amended—

(1) by striking out "required" and all that follows through "made" and inserting in lieu thereof "issued or allocated"; and

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(2) by striking out "4.9B" and inserting in lieu thereof "4.3A".

SEC. 102. AMENDMENTS RELATED TO SECTION 102 OF THE 1987 ACT.

12 USC 2202a.

(a) Section 4.14A(a) is amended by striking out "(other than in sections 4.17 and 4.18)".

(b) Section 4.14A(a)(6)(B) is amended—

(1) by striking out "2.3(a)(2)" and inserting in lieu thereof "1.7(b)(1)(B)"; and

(2) by striking out "2.3(a)" and inserting in lieu thereof "1.7(b)(1)".

(c) Section 4.14A(e)(1) is amended by striking out "a qualified" the second place it appears and inserting in lieu thereof "such qualified".

(d) Section 4.14A(g)(1) is amended by striking out "farm credit district" and inserting in lieu thereof "bank".

(e) Section 4.14A(g)(3) is amended by striking out "district board" and inserting "bank board".

(f) Section 4.14A(l) is amended by striking out "Federal intermediate credit bank" and inserting in lieu thereof "Farm Credit Bank".

(g) Section 4.14B(a) is amended— 12 USC 2202b.

(1) by amending the heading to read as follows:

"(a) FARM CREDIT BANK.—";

(2) by striking out "a Federal land bank" and inserting in lieu thereof "a Farm Credit Bank"; and

(3) by striking out "the Federal land bank shall" and inserting in lieu thereof ", to the extent provided for in the bylaws of the bank relating to its capitalization, the bank shall".

(h) Section 4.14C(b)(1) is amended by striking out "district board of such district" and inserting in lieu thereof "Farm Credit Bank board". 12 USC 2202c.

SEC. 103. AMENDMENTS RELATED TO SECTION 106 OF THE 1987 ACT.

(a) Section 4.14(b)(1) is amended by striking out "by a" and inserting in lieu thereof "before the". 12 USC 2202.

(b) Section 4.14(d)(1) is amended by inserting "or (2)" after "(b)(1)".

SEC. 104. AMENDMENTS RELATED TO SECTION 108 OF THE 1987 ACT.

(a) Section 4.36(b)(2) is amended by striking out "15" and inserting in lieu thereof "30". 12 USC 2219a.

(b) Section 4.36(b)(3) is amended by striking out "30" and inserting in lieu thereof "15".

(c) Section 4.36(g) is amended by striking out "former borrower" and inserting in lieu thereof "previous owner".

TITLE II—AMENDMENTS RELATED TO TITLE II OF THE 1987 ACT

SEC. 201. AMENDMENTS RELATED TO SECTION 201 OF THE 1987 ACT.

(a) Sections 6.3(a)(12) and 6.24(a)(12) are each amended by striking out "(as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))" and inserting in lieu thereof "(within the meaning of section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813))". 12 USC 2278a-3, 2278b-4.

(b) Sections 6.3(b) and 6.24(b) are each amended by striking out "original" and inserting in lieu thereof "exclusive".

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(c) Section 6.4 is amended by redesignating the second subsection (c) and subsection (d), as subsections (d) and (e), respectively. 12 USC 2278a-4.

(d) Section 6.5(d) is amended by striking out "No" and inserting in lieu thereof "Except as provided in section 410(c) of the Agricultural Credit Act of 1987, no". 12 USC 2278a-5.

(e) Section 6.5 is amended by striking out "the appropriate provision of" each place it appears.

(f) Section 6.6(a)(8)(B) is amended by striking out "under sections 5.5 and 5.17(a)(15)". 12 USC 2278a-6.

(g) Section 6.6(a)(9) is amended by striking out "may".

(h) Section 6.6(b)(1) is amended by striking out "(a)(8)" and inserting in lieu thereof "(a)(9)".

(i) Section 6.6(b)(2) is amended by striking out "the appropriate provision of".

(j) Section 6.7(d) is amended— 12 USC 2278a-7.

(1) by inserting a comma after "material"; and

(2) by striking out "under terms" and all that follows through "acceptable" and inserting in lieu thereof "under such terms and conditions, acceptable".

(k) The heading of section 6.9(a) is amended by inserting "ASSETS AND" before "LIABILITIES".

(l) Section 6.9(e)(5) is amended— 12 USC 2278a-9.

(1) by inserting "activation of" after the first comma; and

(2) by striking out the close quotation mark and the period that follows.

12 USC 2278a-12. (m) Section 6.12 is amended by inserting "to the Assistance Board" after "provided".

12 USC 2278a-13. (n) Section 6.13(d) is amended by inserting ", for return to the revolving fund established under section 4.0," before "the full".

12 USC 2278b-2. (o) Section 6.22(a)(1) is amended by striking out "Act" and inserting in lieu thereof "subtitle".

12 USC 2278b-6. (p) Subsections (c)(2)(D) and (d)(1)(D) of section 6.26 are each amended—

(1) by inserting "and Federal land banks" after "credit banks"; and

(2) by striking out "production credit".

(q) Subsections (c)(2)(D) and (d)(1)(D) of section 6.26 are each amended by striking out "Federal intermediate credit banks and Federal land banks" and inserting in lieu thereof "Farm Credit Banks".

(r) Section 6.26(c)(5) is amended—

(1) in each of subparagraphs (B) and (C)(i), by striking out "interest payments" and inserting in lieu thereof "payments under this paragraph"; and

(2) in subparagraph (B), by striking out "issued under subsection (d)(1)(C)" and inserting in lieu thereof "referred to in subsection (d)(1)(E)".

(s) The heading of section 6.26(d) is amended by inserting "; DEFAULTS" after "PRINCIPAL".

(t) Section 6.26(d)(1)(C) is amended—

(1) by striking out "referred to in" and all that follows through "1987," and inserting in lieu thereof "issued to provide assistance under section 410(c) of the Agricultural Credit Act of 1987 and section 4.9A(c) of this Act, or issued to provide funds to cover the expenses of the Assistance Board under section 6.7(a) of this Act,";

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(2) by striking out "such principal" and inserting in lieu thereof "such obligation";

(3) in clause (i), by striking out "bank" and inserting in lieu thereof "institution"; and

(4) in clause (ii), by striking out "banks" and inserting in lieu thereof "institutions".

12 USC 2278b-6. (u) Section 6.26(d)(1)(E) is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(v) Clauses (i) and (iii) of section 6.26(d)(3)(A) are each amended by striking out "this subsection" and inserting in lieu thereof "subsection (c)".

(w) The third sentence of section 6.26(d)(3)(B)(iii) is amended by inserting "is prohibited from redeeming or" after "If such institution".

(x) Section 6.26(d)(4)(B)(iii) is amended by striking out "5.60" and inserting in lieu thereof "5.60(c)(2)(B)".

12 USC 2278b-7. (y) Section 6.27(a)(1) is amended by striking out "(a) or (b)".

(z) Section 6.27(a)(2)(B) is amended—

(1) by striking out "Reserve Account Board" and inserting in lieu thereof "Farm Credit System Insurance Corporation"; and

(2) by striking out "Board purchases" and inserting in lieu thereof "Insurance Corporation purchases".

(aa) Section 6.27(b) is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)".

12 USC 2278b-8. (bb) Section 6.28(b)(2) is amended—

(1) by striking out "this paragraph" and inserting in lieu thereof "paragraph (1) equal"; and

(2) in subparagraph (A), by striking out "subsection (c)(1)(D)" and inserting in lieu thereof "section 6.26(c)(2)(D)".

SEC. 202. AMENDMENT RELATED TO SECTION 202 OF THE 1987 ACT.

12 USC 2151. Section 4.0 is amended to read as follows:

"SEC. 4.0. REVOLVING FUND.

"The revolving fund established by this section (in effect immediately before the date of the enactment of the Agricultural Credit Act of 1987) shall be available to the Farm Credit Administration and the Assistance Board during the periods, and for the purposes, provided for in sections 6.13 and 6.7, respectively.".

SEC. 203. AMENDMENTS RELATED TO SECTION 204 OF THE 1987 ACT.

(a) Section 4.9 is amended by adding at the end the following: 12 USC 2160.
"(f) SUCCESSION.—

"(1) ASSETS AND LIABILITIES.—The Corporation shall, by operation of law and without any further action by the Farm Credit Administration, the predecessor Federal Farm Credit Banks Funding Corporation (hereinafter referred to in this subsection as 'the predecessor corporation') chartered under this Act, or any court, succeed to the assets of and assume all debts, obligations, contracts, and other liabilities of the predecessor corporation, matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the predecessor corporation. Contracts.

"(2) CONTRACTS.—The existing contractual obligations, security instruments, and title instruments of the predecessor corporation shall, by operation of law and without any further action by the Farm Credit Administration, the predecessor corporation, or any court, become and be converted into obligations, entitlements, and instruments of the Corporation. 102 STAT. 993

"(3) STOCK.—The stock of the predecessor corporation issued before the date of the enactment of this section shall, by operation of law and without any further action by the Farm Credit Administration, the predecessor corporation, or any court, become and be converted into stock of the Corporation established by this section.

"(4) TAXATION.—The succession to assets, assumption of liabilities, conversion of obligations, instruments, and stock, and effectuation of any other transaction by the Corporation to carry out this subsection shall not be treated as a taxable event under the laws of any State or political subdivision thereof.". State and local governments.

(b) Section 4.9(b)(3) is amended by inserting "predecessor Federal Farm Credit Banks" before "Funding Corporation". 12 USC 2160.

(c) Subparagraphs (B) and (C) of section 4.9(d)(2) are each amended by striking out "Federal Farm Credit Banks Funding".

(d) Section 4.9(e) is amended to read as follows:

"(e) TRANSITIONAL AUTHORITY.—Until a majority of the voting members of the board of directors of the Corporation is elected, which shall occur as soon as is practicable after the enactment of this section—

"(1) the finance committee established under section 4.5 in effect before the date of the enactment of this section, and the fiscal agency established under section 4.9 in effect before such date of enactment, shall continue to operate as if this section had not been enacted; and

"(2) the board of directors of the predecessor Federal Farm Credit Banks Funding Corporation shall be the board of directors of the Financial Assistance Corporation.".

(e) Section 4.2(e) is amended— 12 USC 2153.

(1) by striking out "their" and inserting in lieu thereof "the"; and

(2) by striking out "fiscal agent" each place it appears and inserting in lieu thereof "Federal Farm Credit Banks Funding Corporation".

SEC. 204. AMENDMENT RELATED TO SECTION 205 OF THE 1987 ACT.

Section 5.19(b)(2) is amended by striking out "this section" and inserting in lieu thereof "the third sentence of paragraph (1)". 12 USC 2254.

SEC. 205. AMENDMENTS RELATED TO SECTION 207 OF THE 1987 ACT.

12 USC 2252.

Section 5.17(a) is amended by redesignating paragraphs (9), (10), (11), (12), (13), and (14), as paragraphs (8), (9), (10), (11), (12), and (13), respectively.

TITLE III—AMENDMENTS RELATED TO TITLE III OF THE 1987 ACT

SEC. 301. AMENDMENTS RELATED TO SECTION 301 OF THE 1987 ACT.

12 USC 2154 note.

(a) Section 301(a) of the 1987 Act is amended—

(1) in paragraph (1)(B), by striking out "be" and inserting in lieu thereof "apply to an institution";

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(2) in paragraph (2), by striking out "5.17(b)(2)" and all that follows through "proposed" and inserting in lieu thereof "5.17(c)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2251(c)(2)) with respect to the issuance of the"; and

(3) in paragraph (3), by striking out "(1)(C)" and inserting in lieu thereof "(1)(D)".

12 USC 2154a.

(b) Section 4.3A(a)(1)(B) is amended by striking out "4.9B" and inserting in lieu thereof "4.9A".

(c) Section 4.3A(c)(1) is amended—

(1) in subparagraph (D)(i), by striking out the third comma; and

(2) in subparagraph (G), by inserting "voting" before "stock issued".

(d) Section 4.3A(c)(1)(H) is amended by inserting ", except as otherwise provided in this section" after "the borrower".

(e) Section 4.3A(c)(1)(I) is amended by striking out "standards issued under".

(f) Section 4.3A(d)(1) is amended—

(1) by striking out "and in section 4.9A"; and

(2) by striking out "or allocated equities".

SEC. 302. AMENDMENTS RELATED TO SECTION 302 OF THE 1987 ACT.

12 USC 2277a.

(a) Subparagraphs (A) and (B) of section 5.51(3) are amended to read as follows:

"(A) on or before January 5, 1989, on behalf of any System bank; and

"(B) after such date, which, when issued, is issued on behalf of any insured System bank."

(b) Section 5.51(5) is amended by striking out "to liquidate" and inserting in lieu thereof "for".

12 USC 2277a-4.

(c) Section 5.55(d) is amended by striking out "loans made by a Federal intermediate credit bank" and inserting in lieu thereof "intermediate term loans made by a Farm Credit Bank".

(d) Section 5.55(d)(2) is amended by striking out "2.3(a)(2)" and inserting in lieu thereof "1.7(b)(1)(B)".

(e) Paragraphs (2) and (3) of section 5.55(d) are each amended by striking out "Federal intermediate credit bank" and inserting in lieu thereof "Farm Credit Bank".

12 USC 2277a-5.

(f) Section 5.56(a) is amended by striking out "of such" and inserting in lieu thereof "of the".

12 USC 2277a-6.

(g) Section 5.57(b)(1) is amended—

(1) by striking out "made any report of condition required under section 5.55 or"; and

(2) by striking out "make any such report or".

(h) Section 5.57(b)(2) is amended by striking out "made or".

12 USC 2277a-7.

(i) Section 5.58(5)(A) is amended by striking out "to" each place it appears.

12 USC 2277a-9.

(j) Section 5.60(b)(1) is amended by striking out "(in effect immediately before the date of the enactment of this part)".

(k) Section 5.60(b)(2) is amended by striking out "Beginning 5 years after the date of the enactment of this part, the" and inserting in lieu thereof "The".

(l) Section 5.60(c)(2)(B) is amended to read as follows:

"(B) ensure the retirement of eligible borrower stock at par value under section 4.9A.".

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SEC. 303. AMENDMENT RELATED TO SECTION 303 OF THE 1987 ACT.

Section 4.4 is amended by redesignating subsection (e) as subsection (d). 12 USC 2155.

TITLE IV—AMENDMENTS RELATED TO TITLE IV OF THE 1987 ACT

SEC. 401. AMENDMENTS RELATED TO SECTION 401 OF THE 1987 ACT.

(a) Section 1.3(a) is amended by inserting ", as provided in section 410 of the Agricultural Credit Act of 1987," before "shall". 12 USC 2011.

(b) Section 1.3(b) is amended to read as follows:

"(b) CHARTERS.—The Farm Credit Administration shall, consistent with this Act, issue charters for, and approve amendments to charters of, the Farm Credit Banks.".

(c) Section 1.4 is amended by striking out "from its voting stockholders". 12 USC 2012.

(d) Section 1.5 is amended— 12 USC 2013.

(1) by amending paragraph (9) to read as follows:

"(9) prescribe, by its board of directors, its bylaws that shall be consistent with law, and that shall provide for—

"(A) the classes of its stock and the manner in which such stock shall be issued, transferred, and retired; and

"(B) the manner in which it is to—

"(i) select officers, employees, and agents;

"(ii) acquire, hold, and transfer property;

"(iii) make loans and discounts;

"(iv) conduct general business; and

"(v) exercise and enjoy the privileges granted to it by law;";

(2) in paragraph (11), by striking out "or securities of" and inserting in lieu thereof "of securities or";

(3) in subparagraphs (B) and (C) of paragraph (12), by striking out "participate with";

(4) in paragraph (14), by striking out "as defined in section 3 of the Federal Deposit Insurance Act" and inserting in lieu thereof "(within the meaning of section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813))";

(5) in paragraph (18), by striking out "Federal land bank";

(6) in paragraph (22), by striking out "as authorized by the Farm Credit Administration; and" and inserting in lieu thereof "in accordance with generally accepted accounting principles, except as may be authorized by the Farm Credit Administration;";

(7) in paragraph (23)—

(A) by striking out "and approved by the Farm Credit Administration Board"; and

(B) by striking out the period at the end and inserting in lieu thereof "; and"; and

(8) by adding at the end the following:

"(24) operate as an originator and become certified as a certified facility under title VIII.".

(e) Section 1.7(a) is amended to read as follows: 12 USC 2015.

"(a) REAL ESTATE LOANS AND RELATED ASSISTANCE.—

"(1) REAL ESTATE LOANS.—The Farm Credit Banks may make or participate with other lenders in long-term real estate mortgage loans in rural areas, as defined by the Farm Credit Administration, or to producers or harvesters of aquatic products, and make continuing commitments to make such loans under specified circumstances, for a term of not less than 5 nor more than 40 years.

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"(2) FINANCIAL ASSISTANCE.—The Farm Credit Banks may provide and extend financial assistance to, and discount for, or purchase from, a Federal land bank association any note, draft, or other obligation with the endorsement or guarantee of the association, the proceeds of which have been advanced to persons eligible and for purposes of financing by the association, as authorized under section 7.6(a).".

12 USC 2015. (f) Section 1.7(b) is amended—

(1) in paragraph (2), by striking out the second sentence;

(2) in paragraph (3)—

(A) in the heading, by striking out "ASSISTANCE" and inserting in lieu thereof "SERVICES"; and

(B) in subparagraph (B), by striking out "herein contained" and inserting in lieu thereof "described in subparagraph (A)"; and

(3) in paragraph (4)(A), by striking out "section" and inserting in lieu thereof "subsection".

12 USC 2016. (g) Section 1.8(a) is amended by striking out "interest at a rate or rates, and" and inserting in lieu thereof "such rate or rates of interest or discount, and be".

12 USC 2018. (h) Section 1.10(a) is amended—

(1) in paragraph (2), by striking out "approved by" and inserting in lieu thereof "prescribed by regulations of"; and

(2) in paragraph (3)—

(A) by striking out "appraisal" the second place it appears; and

(B) by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of".

(i) Section 1.10(b) is amended by striking out "harvester" and inserting in lieu thereof "harvesters".

12 USC 2019. (j) Section 1.11(c)(2) is amended—

(1) by inserting "equipment or" before "facilities"; and

(2) by inserting "or title II" after "title".

12 USC 2020. (k) Section 1.12 is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Farm Credit Banks";

(2) by striking out "each district" and inserting in lieu thereof "the"; and

(3) by adding at the end the following new subsection:

"(b) AUTHORITY TO PASS ALONG COST OF INSURANCE PREMIUMS.—Each Farm Credit Bank may assess each production credit association and other financing institution described in section 1.7(b)(1)(B) in the district in which the bank is located to cover the costs of making premium payments under part E of title V. The assessment on any such association or other financing institution for any calendar year shall be computed on the same basis as is used to compute the premium payment and shall not exceed the sum of—

"(1) the annual average principal outstanding for such year on loans made by the association, or on loans made by the other financing institution and discounted with the Farm Credit Bank, that are in accrual status, multiplied by 0.0015; and

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"(2) the annual average principal outstanding for such year on loans made by the association, or on loans made by the other financing institution and discounted with the Farm Credit Bank, that are in nonaccrual status, multiplied by 0.0025.".

12 USC 2023. (l) Section 1.15 is amended—

(1) by inserting a comma after "therefrom" the first place it appears; and

(2) by striking out "742(a)" and inserting in lieu thereof "3124".

12 USC 2071. (m) Section 2.0(b) is amended—

(1) in paragraph (1), by striking out "title" and inserting in lieu thereof "subtitle";

(2) in paragraph (3)(B), by striking out "part" and inserting in lieu thereof "subtitle";

(3) in subparagraphs (B) and (C) of paragraph (3), by striking out "the" the first place it appears; and

(4) in paragraph (8)—

(A) by striking out "or by approval of bylaws of the association"; and

(B) by amending subparagraph (D) to read as follows:

"(D) approve amendments to the charter of the association.".

(n) Section 2.1 is amended by striking out the sixth comma. 12 USC 2072.

(o) Section 2.2 is amended— 12 USC 2073.

(1) by amending paragraph (16) to read as follows:

"(16) prescribe, by its board of directors, its bylaws that shall be consistent with law, and that shall provide for—

"(A) the classes of its stock and the manner in which such stock shall be issued, transferred, and retired; and

"(B) the manner in which it is to—

"(i) select officers and employees;

"(ii) acquire, hold, and transfer property;

"(iii) conduct general business; and

"(iv) exercise and enjoy the privileges granted to it by law;";

(2) in paragraph (17)—

(A) by striking out "elect by the board of directors of the association" and insert in lieu thereof "provide by its board of directors for"; and

(B) by striking out "be elected or designated" and inserting in lieu thereof "serve as";

(3) in paragraph (19), by striking out "and";

(4) in paragraph (20), by striking out the period and inserting in lieu thereof "; and"; and

(5) by adding at the end the following:

"(21) operate as an originator and become certified as a certified facility under title VIII.".

(p) Section 2.4(b)(1) is amended— 12 USC 2075.

(1) by striking out "title" and inserting in lieu thereof "subtitle"; and

(2) by inserting "or" before "planned".

(q) Section 2.4 is amended by adding at the end the following:

"(d) SPECIAL DISTRICT RULE.—

"(1) PROVISION OF CREDIT AND TECHNICAL ASSISTANCE OUTSIDE SERVICE TERRITORY.—Notwithstanding any territorial limitation in the charter of a production credit association located in a district in which there are only two such associations, the Farm Credit Administration Board, on request of such association, may permit such association to provide credit and technical assistance to any borrower who is denied credit by the other production credit association in the district if the Board determines that such other production credit association in the district is unduly restrictive in the application of credit standards. 102 STAT. 998

"(2) TIMING OF DETERMINATION.—If the Farm Credit Administration Board approves the extension of credit and technical assistance under paragraph (1), the association shall approve or deny the application for credit within 90 days after receipt of the application from the borrower.".

(r) Section 2.6 is amended— 12 USC 2077.

(1) by inserting a comma after "interest"; and

(2) by inserting ", except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder" before the period. Taxes.

(s) Section 2.10(b) is amended— 12 USC 2091.

(1) in paragraph (1), by inserting "under section 1.7(a)" before the first comma; and

(2) by amending paragraph (2)(D)(i) to read as follows:

"(i) the individual's eligibility and request for a Farm Credit Bank loan;".

(t) Section 2.10(c) is amended to read as follows:

"(c) FCA AUTHORITY ON ORGANIZATION.—The Farm Credit Administration shall have power, in the terms of the charter, under rules and regulations prescribed by the Farm Credit Administration—

"(1) to provide for the organization of the association;

"(2) to provide for the initial amount of stock of the association;

"(3) to provide for the territory within which the association may carry on its operations; and

"(4) to approve amendments to the charter of such association.".

12 USC 2093.

(u) Section 2.12 is amended—

(1) in paragraph (7)—

(A) by striking out "elect by its board of directors" and insert in lieu thereof "provide by its board of directors for"; and

(B) by striking out "be elected or designated" and inserting in lieu thereof "serve as";

(2) by amending paragraph (8) to read as follows:

"(8) prescribe, by its board of directors, its bylaws that shall be consistent with law, and that shall provide for—

"(A) the classes of its stock and the manner in which such stock shall be issued, transferred, and retired; and

"(B) the manner in which it is to—

"(i) select officers and employees;

Real property.

"(ii) acquire, hold, and transfer property;

"(iii) conduct general business; and

"(iv) exercise and enjoy the privileges granted to it by law;";

(3) in paragraph (12), by striking out "or delegated to" and inserting in lieu thereof "by";

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(4) in paragraph (20), by striking out "and";

(5) in paragraph (21), by striking out the period and inserting in lieu thereof "; and"; and

(6) by adding at the end the following:

"(22) operate as an originator and become certified as a certified facility under title VIII.".

12 USC 2095 and note.

(v) Section 2.14 is hereby repealed, and the Farm Credit Act of 1971 shall be applied and administered as if such section had not been enacted.

12 USC 2096–2098.

(w) Title II is amended by redesignating sections 2.15, 2.16, and 2.17, as sections 2.14, 2.15, and 2.16, respectively.

12 USC 2098.

(x) Section 2.16, as so redesignated, is amended—

(1) by inserting a comma after "therefrom" the first place it appears;

(2) by striking out "banks" and inserting in lieu thereof "associations"; and

(3) by striking out "742(a)" and inserting in lieu thereof "3124".

SEC. 402. AMENDMENTS RELATED TO SECTION 410 OF THE 1987 ACT.

12 USC 2011 note.

(a) Section 410(a) of the 1987 Act is amended—

(1) by inserting "Farm Credit System" after "each"; and

(2) by adding at the end the following: "The mergers required by this section shall be implemented without regard to title VII.".

(b) Section 410(b) of the 1987 Act is amended by striking out "The" and inserting in lieu thereof "Notwithstanding section 1.6 (as added by section 401 of this Act), the".

(c) Section 410(c) of the 1987 Act is amended—

(1) by inserting "established under section 6.0" after "Assistance Board"; and

(2) by inserting "established under section 6.20" after "Assistance Corporation".

(d) Section 410(d) of the 1987 Act is amended by striking out "The" and inserting in lieu thereof "Notwithstanding section 1.4 (as added by section 401 of this Act), the".

SEC. 403. AMENDMENTS RELATED TO SECTION 411 OF THE 1987 ACT.

Paragraphs (2) and (3) of section 411(b) of the 1987 Act are each amended by striking out "6-month" and inserting in lieu thereof "12-month". 12 USC 2071 note.

SEC. 404. AMENDMENTS RELATED TO SECTION 412 OF THE 1987 ACT.

(a) The section heading of section 412 of the 1987 Act is amended to read as follows: 12 USC 2002 note.

"SEC. 412. CONSOLIDATION OF DISTRICT FARM CREDIT BANKS.".

(b) Section 412(a)(2) of the 1987 Act is amended—
(1) by striking out the second comma;
(2) by striking out "System banks" and inserting in lieu thereof "Banks";
(3) by striking out "farm credit banks" and inserting in lieu thereof "Farm Credit Banks".

(c) Section 412(b)(1) of the 1987 Act is amended—
(1) by striking out "(b)(2)" and inserting in lieu thereof "(a)(2)"; and
(2) by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)".

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(d) Section 412(b)(2) of the 1987 Act is amended by striking out "Proposals" and inserting in lieu thereof "The proposal". 12 USC 2002 note.

SEC. 405. AMENDMENTS RELATED TO SECTION 413 OF THE 1987 ACT.

(a) Section 413(a)(2)(A) of the 1987 Act is amended by striking out "subparagraph (C)" and inserting in lieu thereof "paragraph (1)(C)". 12 USC 2121 note.

(b) Section 413(a)(3) of the 1987 Act is amended—
(1) by striking out the open quotation mark;
(2) by striking out "and subscribers to the guaranty funds"; and
(3) by inserting "for cooperatives" after "banks".

(c) Section 413(b)(1)(A)(i) of the 1987 Act is amended by striking out ", or a subscriber to the guaranty fund of".

(d) Section 413(b)(4)(A) of the 1987 Act is amended by inserting "for cooperatives" after "district banks".

(e) Section 413(b)(6)(A)(ii) of the 1987 Act is amended by striking out the comma.

(f) Section 413(b)(6)(B) of the 1987 Act is amended by striking out the first comma.

(g) Section 413(b)(6)(C) of the 1987 Act is amended by striking out "(a)" and inserting in lieu thereof "(b)(1)".

SEC. 406. AMENDMENTS RELATED TO THE FIRST SECTION 414 OF THE 1987 ACT.

(a) Subsection (a) of the first section 414 of the 1987 Act is amended by striking out "(a) INITIAL BOARD.—The" and inserting in lieu thereof "Notwithstanding section 3.2, the". 12 USC 2121 note.

(b) Subsection (b) of the first section 414 of the 1987 Act is hereby repealed, and the 1987 Act and the Farm Credit Act of 1971 shall be applied and administered as if such subsection had not been enacted. 12 USC 2121 and note.

SEC. 407. AMENDMENTS RELATED TO THE FIRST SECTION 415 OF THE 1987 ACT.

(a) Section 3.20(a) is amended— 12 USC 2141.
(1) by striking out "in this section"; and
(2) by inserting ", established under section 413 of the Agricultural Credit Act of 1987," before "shall".

(b) Section 3.20(b) is amended by inserting "except" before "as otherwise".

(c) Section 3.21(b)(2) is amended by adding at the end the following: 12 USC 2142.

"(C) THIRD MEMBER.—The nomination and election of the third member from each district shall be carried out in accordance with procedures prescribed in the bylaws of the consolidated bank.".

(d) Section 3.21(b)(2)(B)(i)(I) is amended to read as follows:

"(I) at the close of the immediately preceding fiscal year of the consolidated bank; or".

12 USC 2143. (e) Section 3.22 is amended—

(1) by striking out "United Bank for Cooperatives or the National Bank for Cooperatives" and inserting in lieu thereof "consolidated bank"; and

(2) by striking out "merger" and inserting in lieu thereof "establishment of the bank under section 413 of the Agricultural Credit Act of 1987".

12 USC 2146. (f) Section 3.25 is amended to read as follows:

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"SEC. 3.25. CAPITALIZATION.

"In accordance with section 4.3A, each consolidated bank shall provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the bank and the manner in which bank stock shall be issued, held, transferred, and retired and bank earnings distributed.".

12 USC 2148. (g) Section 3.27 is amended by striking out "taxable institution" and inserting in lieu thereof "cooperative".

SEC. 408. AMENDMENTS RELATED TO SECTION 416 OF THE 1987 ACT.

(a) The title heading of title VII is amended to read as follows:

"TITLE VII—RESTRUCTURING OF SYSTEM INSTITUTIONS"

12 USC 2279a. (b) Section 7.0 is amended—

(1) by striking out "Two or more" and inserting in lieu thereof "The"; and

(2) in paragraph (3), by striking out "in accordance" and all that follows through "by" and inserting in lieu thereof "with each association entitled to cast a number of votes equal to the number of its voting".

12 USC 2279a-1. (c) Section 7.1 is amended to read as follows:

"SEC. 7.1. BOARD OF DIRECTORS.

"Each merged bank shall elect a board of directors of such number, for such term, in such manner, and with such qualifications, as may be required in its bylaws, except that at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.".

12 USC 2279a-3, 2279a-4. (d) Subtitle A of title VII is amended by striking out sections 7.3 and 7.4 and inserting in lieu thereof the following:

"SEC. 7.3. CAPITALIZATION.

"In accordance with section 4.3A, each merged bank shall provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the bank and the manner in which bank stock shall be issued, held, transferred, and retired and bank earnings distributed.".

12 USC 2279a-5, 2149a. (e) Subtitle A of title VII is amended by redesignating section 7.5 as section 3.29, and by transferring such section, as so amended, to the end of part B of title III.

12 USC 2279b. (f) Section 7.6(a) is amended—

(1) by striking out "ASSIGNMENTS.—" and inserting in lieu thereof "VOLUNTARY TRANSFERS.—";

(2) by striking out "assign" and inserting in lieu thereof "transfer";

(3) by striking out "sections 1.6 through 1.9" and inserting in lieu thereof "this Act";

(4) by striking out "assignment" and inserting in lieu thereof "transfer"; and

(5) in paragraph (3), by striking out "7.6" and inserting in lieu thereof "7.8, respectively".

(g) Section 7.6(b) is amended— 102 STAT. 1002

(1) by striking out "an assignment described in subsection (a)" and inserting in lieu thereof "a transfer described in subsection (a) or (d)"; and

(2) in paragraph (2), by striking out "Federal land" the first place it appears.

(h) Section 7.6(c) is amended— 12 USC 2279b.

(1) by striking out "assignments or"; and

(2) by striking out the second sentence.

(i) The section heading and text of section 7.7 are amended to read as follows: 12 USC 2279c

"(d) MANDATORY TRANSFER.—On the merger of one or more production credit associations with one or more Federal land bank associations, the bank supervising the Federal land bank association shall transfer all of the direct lending authority of the bank in the territory served by such Federal land bank association to such merged association.".

(j) The provision amended by subsection (i) of this section, as so amended, is hereby transferred to the end of section 7.6, where such transferred provision shall become a new subsection (d). 12 USC 2279b, 2279c

(k) Section 7.8(b)(2) is amended by striking out the second sentence. 12 USC 2279e-1.

(l) Section 7.8 is amended by striking out paragraphs (2) and (3) of subsection (c) and subsection (d) and inserting in lieu thereof the following:

"(2) CAPITALIZATION.—In accordance with section 4.3A, each merged association shall provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the association and the manner in which association stock shall be issued, held, transferred, and retired, and association earnings shall be distributed.".

(m) Subtitle B of title VII is amended by redesignating chapter 3 as chapter 4, and by inserting before section 7.9 the following:

"Chapter 3—Reconsideration".

(n) Section 7.9(a) is amended— 12 USC 2279e-2.

(1) in paragraph (1), by striking out "section 5.17(a)(2)" and inserting in lieu thereof "this Act";

(2) in paragraph (5), by inserting "or 7.13" before the semicolon;

(3) in paragraph (6), by striking out "and" and inserting in lieu thereof "or";

(4) in paragraph (7), by striking out "7.13" and inserting in lieu thereof "7.12"; and

(5) by redesignating paragraphs (5), (6), and (7), as paragraphs (4), (5), and (6), respectively.

(o) Section 7.9(b)(2) is amended—

(1) by striking out the third comma; and

(2) by inserting "banks or" after "such".

(p) Section 7.11(a)(1) is amended— 12 USC 2279e.

(1) by striking out "or assignment"; and

(2) by striking out "such institutions" and inserting in lieu thereof "the institutions involved".

(q) Section 7.12(b) is amended to read as follows: 12 USC 2279f.

"(b) POWERS AND CAPITALIZATION.—Sections 7.2 and 7.3 shall apply to banks merged under this section.". 102 STAT. 1003

(r) Section 7.12(c)(2)(B) is amended by striking out "members" and inserting in lieu thereof "directors". 12 USC 2279f.

(s) Section 7.13(a)(4) is amended by striking out "Bank" and inserting in lieu thereof "Banks involved". 12 USC 2279f-1.

(t) Section 7.13(b) is amended by striking out "(b), (c), and (d)" and inserting in lieu thereof "(b) and (c)".

12 USC 2279g.

(u) Title VII is amended by adding at the end the following new subtitle:

"Subtitle E—Taxation of Merger Transactions

"SEC. 7.14. TRANSACTIONS TO ACCOMPLISH MERGERS EXEMPT FROM CERTAIN STATE TAXES.

Real property.

"No State or political subdivision thereof may treat the merger or consolidation of two or more institutions of the Farm Credit System under this title or title IV of the Agricultural Credit Act of 1987 as resulting in a change of ownership of any property owned by any of such merging or consolidating institutions, for purposes of any law of such State or political subdivision providing for reassessment of property on the occurrence of a change of ownership or imposing a tax on the ownership or transfer of property.".

12 USC 2153, 2181-2183, 2222-2227, 2252.

SEC. 409. AMENDMENTS RELATED TO THE SECOND SECTION 414 AND SECOND SECTION 415 OF THE 1987 ACT.

(a) Subtitle B of title IV of the 1987 Act is amended by redesignating the second section 414 and the second section 415, as sections 417 and 418, respectively.

(b) The table of contents of the 1987 Act is amended by striking out the items relating to the second section 414 and the second section 415, and inserting in lieu thereof the following:

"Sec. 417. Nondiscrimination.
"Sec. 418. Conforming amendments.".

12 USC 2222-2227.

(c) Subsection (c) of section 418 of the 1987 Act (as so redesignated by subsection (a) of this section) is hereby repealed, and the Farm Credit Act of 1971 shall be applied and administered, and the amendments made by sections 430 and 802(u) of the 1987 Act shall take effect, as if such subsection (c) had not been enacted.

12 USC 2222-2227, 12 USC 2258.

(d) Sections 5.1 through 5.6 are hereby repealed.

(e) Section 5.17(a)(2) is amended—

(1) by inserting "approve" before "the consolidation"; and

(2) by striking out "that they serve" and inserting in lieu thereof "of institutions".

SEC. 410. AMENDMENT RELATED TO SECTION 421 OF THE 1987 ACT.

12 USC 2129.

Section 3.8(b)(1)(C) is amended by striking out "make" and inserting in lieu thereof "makes".

SEC. 411. AMENDMENTS RELATED TO SECTION 422 OF THE 1987 ACT.

12 USC 2218.

(a) Section 4.29(a)(1) is amended by striking out "sections 1.11, 1.15, 2.5, and 2.16" and inserting in lieu thereof "titles I and II".

(b) Section 4.29(a)(2) is amended by striking out "Federal intermediate credit banks" and inserting in lieu thereof "Farm Credit Banks".

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SEC. 412. AMENDMENTS RELATED TO SECTION 426 OF THE 1987 ACT.

12 USC 2017.

(a) Section 1.9(b) is amended by striking out "approved by" and inserting in lieu thereof "prescribed by regulations of".

(b) Section 1.9(c) is amended—

(1) by striking out "appraisal" the second place it appears; and

(2) by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of".

SEC. 413. AMENDMENTS RELATED TO SECTIONS 427 AND 428 OF THE 1987 ACT.

12 USC 2219c, 2219d.

Part H of title IV is amended by redesignating section 4.37 (as added by section 427 of the 1987 Act) and section 4.38, as sections 4.38 and 4.39, respectively.

SEC. 414. AMENDMENT RELATED TO SECTION 430 OF THE 1987 ACT.

Part D of title IV is amended by adding at the end the following:

"SEC. 4.21. COMPENSATION OF DIRECTORS. 12 USC 2209.

"No member of the board of directors of a System bank may receive more than $15,000 per year under this Act as compensation for serving as a director of such bank.".

SEC. 415. AMENDMENTS RELATED TO SECTION 431 OF THE 1987 ACT.

(a) Section 5.11(c)(2)(C) is amended by striking out "5315" and inserting in lieu thereof "5373". 12 USC 2245.

(b) Section 2.15(c)(1) is amended to read as follows: 12 USC 2096.

"(c)(1) Notwithstanding any territorial limitation in the charter of a production credit association located in a district in which there are only two such associations, the Farm Credit Administration Board, on request of such association, may permit such association to provide credit and technical assistance to any borrower who is denied credit by the other production credit association in the district if the Board determines that such other production credit association in the district is unduly restrictive in the application of credit standards.".

SEC. 416. AMENDMENTS RELATED TO SECTION 432 OF THE 1987 ACT.

(a) Section 5.15(a)(2)(A) is amended by striking out "such assessment" and inserting in lieu thereof "the assessment described in paragraph (1)(B)". 12 USC 2250.

(b) Section 5.15(a)(2)(C) is amended by striking out "specified" and inserting in lieu thereof "described".

(c) Section 5.19(a) is amended by striking out "5" and inserting in lieu thereof "three". 12 USC 2254.

SEC. 417. AMENDMENTS RELATED TO SECTION 433 OF THE 1987 ACT.

(a) Section 433(a) of the 1987 Act is amended— 12 USC 2071 note.

(1) by striking out "this Act" and inserting in lieu thereof "law"; and

(2) by striking out "the Agricultural Credit Act of 1987" and inserting in lieu thereof "this Act".

(b) Section 433(b) of the 1987 Act is amended by striking out "subsection" and inserting in lieu thereof "section".

(c) Section 433(c)(2)(B) of the 1987 Act is amended by striking out "such adjoining district" and inserting in lieu thereof "the adjoining district bank".

(d) Section 433(c)(2)(C) of the 1987 Act is amended by inserting "Farm Credit System" before "Assistance Board". 12 USC 2071 note.

TITLE V—AMENDMENTS RELATED TO TITLE V OF THE 1987 ACT

SEC. 501. AMENDMENT RELATED TO SECTION 501 OF THE 1987 ACT.

Section 501(b) of the 1987 Act is amended by striking out the first comma. 7 USC 5101.

SEC. 502. AMENDMENTS RELATED TO SECTION 503 OF THE 1987 ACT.

(a) Section 503(a)(1)(B) of the 1987 Act is amended by inserting "effective beginning" before "on". 7 USC 5103.

(b) Section 503(a)(2) of the 1987 Act is amended by striking out "paragraph (1)" and inserting in lieu thereof "section 501".

TITLE VI—AMENDMENTS RELATED TO TITLE VII OF THE 1987 ACT

SEC. 601. AMENDMENTS RELATED TO SECTION 702 OF THE 1987 ACT.

(a) Section 8.0(9)(B)(ii) is amended— 12 USC 2279aa.

(1) by striking out "hold" and inserting in lieu thereof "holding"; and

(2) by striking out "and" the first place it appears.

12 USC 2279aa-2.

(b) Subsections (a)(1) and (b)(3) of section 8.2 are each amended by striking out "effective date" and inserting in lieu thereof "date of the enactment".

12 USC 2279aa-3.

(c) Section 8.3(c)(4) is amended by striking out "the persons" and inserting in lieu thereof "such persons".

12 USC 2279aa-4.

(d) The penultimate sentence of section 8.4(a)(1) is amended—

(1) by inserting "and" before "that are entitled"; and

(2) by inserting ", including national banking associations (which shall be allowed to purchase and hold such stock)" before the period.

(e) Section 8.4(e)(1) is amended by striking out "Association" and inserting in lieu thereof "Corporation".

12 USC 2279aa-6.

(f) Section 8.6(a)(1) is amended—

(1) by striking out "in, or obligations" and inserting in lieu thereof "solely in, or obligations fully"; and

(2) by striking out "any pool of qualified loans" and inserting in lieu thereof "any pool consisting solely of qualified loans which meet the standards established under section 8.8 and which are".

(g) Section 8.6(e) is amended—

(1) in paragraph (1), by inserting "and" at the end;

(2) by striking out paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(h) Section 8.6(f)(1) is amended by striking out "effective date" and inserting in lieu thereof "date of the enactment".

12 USC 2279aa-8.

(i) Section 8.8(a) is amended by inserting "permanent" before "Board" the first place it appears.

12 USC 2279aa-9.

(j) Section 8.9 is amended by striking out "and 4.37" each place it appears and inserting in lieu thereof "4.14D, and 4.36".

12 USC 2279aa-12.

(k) Section 8.12(a)(1) is amended by inserting ", or obligations backed by," before "a pool".

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(l) Section 8.12(b)(2) is amended by striking out "effective date" and inserting in lieu thereof "date of the enactment".

SEC. 602. AMENDMENT RELATED TO SECTION 703 OF THE 1987 ACT.

Section 9105(a)(4)(B)(i) of title 31, United States Code, is amended by striking out "Association" and inserting in lieu thereof "Corporation".

SEC. 603. AMENDMENTS RELATED TO SECTION 704 OF THE 1987 ACT.

12 USC 2279aa note.

Paragraphs (1) and (3) of section 704(a) of the 1987 Act are each amended by striking out "title" and inserting in lieu thereof "subtitle".

SEC. 604. AMENDMENTS RELATED TO SECTION 705 OF THE 1987 ACT.

12 USC 2012, 2033, 2072, 2093.

Sections 1.4(23), 1.15(22), 2.1(21), and 2.12(21) are each amended by striking out "to".

SEC. 605. AMENDMENTS RELATED TO SECTION 711 OF THE 1987 ACT.

7 USC 1988. Contracts.

Section 338(f) of the Consolidated Farm and Rural Development Act is amended by adding at the end the following:

"(5) The Secretary may contract for goods and services to be used for the purposes of this subsection without regard to the provisions of titles 5, 40, and 41, United States Code, and any regulations issued thereunder.".

TITLE VII—AMENDMENTS RELATED TO TITLE VIII OF THE 1987 ACT

SEC. 701. AMENDMENT RELATED TO SECTION 802 OF THE 1987 ACT.

12 USC 2017 and note.

Subsection (d) of section 802 of the 1987 Act is hereby repealed, and section 1.9 shall be applied and administered as if such subsection had not been enacted.

SEC. 702. AMENDMENTS RELATED TO SECTION 805 OF THE 1987 ACT.

(a) Section 1.15(12) is amended by inserting "by" before "the association". 12 USC 2033.

(b) Subsections (q), (s), and (x) of section 805 of the 1987 Act are hereby repealed, and sections 4.3(c), 4.14, and 5.11 shall be applied and administered as if such subsections had not been enacted. 12 USC 2154 and note, 2202, 2245.

(c) Title IV is amended by redesignating parts G and H as parts F and G, respectively.

(d) Section 5.28(e) is amended by striking out "(d)" and inserting in lieu thereof "(c)". 12 USC 2264.

(e) Section 5.29(b) is amended by striking out "may" the second place it appears. 12 USC 2265.

TITLE VIII—AMENDMENTS RELATED TO TITLE IX OF THE 1987 ACT

SEC. 801. AMENDMENTS RELATED TO SECTION 901 OF THE 1987 ACT.

Section 901(b)(2) of the 1987 Act is amended— 12 USC 2001 note.

(1) by inserting "et seq." after "2201";

(2) by striking out the fourth comma; and

(3) by striking out "title" the second place it appears and inserting in lieu thereof "Act".

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TITLE IX—OTHER AMENDMENTS TO THE FARM CREDIT ACT OF 1971

SEC. 901. OTHER AMENDMENTS.

(a) Sections 1.21 and 2.8 are each amended by striking out "742(a)" and inserting in lieu thereof "3124". 12 USC 2055, 2079.

(b) Sections 2.1(12) and 3.1(12) are each amended by striking out "as defined in section 2 of the Federal Deposit Insurance Act" and inserting in lieu thereof "(within the meaning of section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813))". 12 USC 2072, 2122.

(c) Section 3.0 is amended by striking out "one or more" and all that follows through "this Act" and inserting in lieu thereof "another bank". 12 USC 2121.

(d) Subsections (a) and (b) of section 3.2 are amended to read as follows: 12 USC 2123.

"(a) Each bank for cooperatives not merged into the United Bank for Cooperatives or the National Bank for Cooperatives shall elect a board of directors of such number, for such term, in such manner, and with such qualifications as may be required in its bylaws, except that at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

"(b) The board of directors of the Central Bank for Cooperatives shall consist of one member elected by the board of each bank for cooperatives, including the United Bank for Cooperatives if the Central Bank for Cooperatives is not merged into such bank, and one member appointed by the Farm Credit Administration.".

(e) Section 3.8(a)(4) is amended by striking out "district board" and inserting in lieu thereof "bank board". 12 USC 2129.

(f) Section 4.12(a) is amended by striking out "district board" and inserting in lieu thereof "board of the supervising bank". 12 USC 2183.

(g) Section 4.15 is amended by striking out "district" the first and second places it appears and inserting in lieu thereof "bank". 12 USC 2203.

(h) Section 4.17 is amended by striking out "pursuant to section 2.3 of this Act" and inserting in lieu thereof "and Farm Credit Banks". 12 USC 2205.

(i) Section 4.19(a) is amended by inserting "Farm Credit Bank" after "district". 12 USC 2207.

(j) Section 4.19(b) is amended—

(1) by striking out "The Federal land bank and the Federal

intermediate credit bank" and inserting in lieu thereof "The Farm Credit Bank";

(2) by striking out "their" each place it appears and inserting in lieu thereof "its";

(3) by striking out "of this section";

(4) by striking out "banks" and inserting in lieu thereof "bank"; and

(5) by striking out "a joint" and inserting in lieu thereof "an".

12 USC 2214.

(k) Section 4.28 is amended—

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(1) by inserting "or associations" after "exempt banks"; and

(2) by striking out "1.21, 2.8," and inserting in lieu thereof "1.15, 2.17,".

12 USC 2251.

(l) Section 5.16 is amended by striking out "district" and inserting in lieu thereof "bank".

12 USC 2252.

(m) Section 5.17(a) is amended—

(1) in paragraph (1), by striking out "district boards" and inserting in lieu thereof "district banks";

(2) in paragraph (2), by striking out "boards of the districts" and inserting in lieu thereof "district bank boards"; and

(3) in paragraph (3), by striking out "Federal land banks" and all that follows through "of this Act" and inserting in lieu thereof "Farm Credit Banks under section 4.19(b)".

(n) Section 5.17(d)(1) is amended—

(1) by striking out "of this Act" each place it appears; and

(2) by striking out "2.3" and inserting in lieu thereof "1.7(b)".

(o) The title heading of title V is amended to read as follows:

"TITLE V—FARM CREDIT ADMINISTRATION ORGANIZATION".

(p) Title V is amended by striking out the heading of part A.

12 USC 2221.

(q) Section 5.0 is amended—

(1) by striking out "SEC. 5.0. CREATION OF" and inserting in lieu thereof "(b) FARM CREDIT"; and

(2) by striking out "district boards" and inserting in lieu thereof "boards of the banks in each district".

12 USC 2221, 2002.

(r) The provision amended by subsection (q) of this section, as so amended, is hereby transferred to the end of section 1.2, where such transferred provision shall become a new subsection (b).

12 USC 2002.

(s) Section 1.2 is amended—

(1) by inserting "(a) COMPOSITION.—" before "The Farm Credit System shall"; and

(2) by striking out "the regulation" and inserting in lieu thereof "regulation".

TITLE X—EFFECTIVE DATES

12 USC 2002 note.

SEC. 1001. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this Act shall take effect as if enacted immediately after the enactment of the 1987 Act.

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(b) EXCEPTIONS.—The amendments made by sections 102(b), 102(f), 102(g), 102(h), 201(q), 302(c), 302(d), 302(e), 401, 402(b), 409(d), 411, 414, and 901 (other than by subsections (a), (b), (c), (e), (f), and (g) thereof) of this Act shall take effect immediately after the amendment made by section 401 of the 1987 Act takes effect.

Approved August 17, 1988.

LEGISLATIVE HISTORY—H.R. 3980:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 23, considered and passed House.
Aug. 3, considered and passed Senate.

Public Law 100-435
100th Congress

102 STAT. 1645

An Act

To amend the Temporary Emergency Food Assistance Act of 1983 to require the Secretary of Agriculture to make available additional types of commodities, to improve child nutrition and food stamp programs, to provide other hunger relief, and for other purposes.

Sept 19, 1988
[S. 2560]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Hunger Prevention Act of 1988.
Disadvantaged persons.
State and local governments.
7 USC 2011 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Hunger Prevention Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EMERGENCY HUNGER PREVENTION

Subtitle A—Temporary Emergency Food Assistance Program

Sec. 101. Domestic use as a higher priority than foreign sales.
Sec. 102. Supplementation of commodities.
Sec. 103. Extension of TEFAP.
Sec. 104. Additional commodities program.
Sec. 105. Distribution costs and regulations.
Sec. 106. Extension of dairy export incentive program.
Sec. 107. Extension of export sales of dairy products.

Subtitle B—Soup Kitchens and Other Emergency Food Aid

Sec. 110. Soup kitchens and food banks.
Sec. 111. Gleaning technical assistance.

Subtitle C—Basic Food Stamp Benefit Levels

Sec. 120. Thrifty food plan.

Subtitle D—Commodity Supplemental Food Program

Sec. 130. Continuation of provision of cheese supplies.

TITLE II—NUTRITION IMPROVEMENTS

Subtitle A—Food Stamp Act of 1977

Sec. 201. Categorical eligibility.
Sec. 202. Reporting requirements and calculation of household income.
Sec. 203. Benefits for households subject to prorating.
Sec. 204. Optional food stamp information activities.
Sec. 205. Extension of homeless amendments.

Subtitle B—Child Nutrition Act of 1966, and National School Lunch Act

Sec. 210. Improvement of school breakfast program.
Sec. 211. Addition of one snack or one meal to the Child Care Food Program.
Sec. 212. Access of homeless women, infants, and children to the special supplemental food program.
Sec. 213. Summer feeding program.
Sec. 214. Department of Defense child care feeding program.

Subtitle C—Food Processing and Distribution

Sec. 220. Encouragement of food processing and distribution by eligible recipient agencies. 102 STAT. 1646

TITLE III—ADMINISTRATIVE IMPROVEMENTS AND SIMPLIFICATION

Sec. 301. References to the Food Stamp Act of 1977.

Subtitle A—Reducing Unnecessary Paperwork

Sec. 310. Simplified application forms.
Sec. 311. Statement of required verification.

Subtitle B—Assuring Accurate Issuance of Benefits

Sec. 320. Correcting improper denials and underissuances.
Sec. 321. Special training of State personnel involved in certifying farm households.
Sec. 322. Training of certification workers and community resources.
Sec. 323. Preventing incorrect issuances.

Subtitle C—Reducing Barriers in Rural America

Sec. 330. Transportation difficulties in rural areas.

Subtitle D—Eliminating Inequities for Farmers and Others

Sec. 340. Continuation of food stamps to participants in cash-outs of other benefit programs.
Sec. 341. Annualizing self-employment income and expenses from farming.
Sec. 342. Households in transition.
Sec. 343. Technical correction to exclusion of energy assistance from food stamp income.
Sec. 344. Civil money penalties and disqualification of retail food stores and wholesale food concerns.

Subtitle E—Reducing Barriers for the Elderly and Disabled

Sec. 350. Disabled persons receiving benefits under standards at least as stringent as those in the Social Security Act.
Sec. 351. Simplified procedure for claiming excess medical deduction.
Sec. 352. Coordinated application.

TITLE IV—FAMILY SELF-SUFFICIENCY

Sec. 401. References to the Food Stamp Act of 1977.
Sec. 402. Exclusion for advance payment of earned income credit.
Sec. 403. Deduction for dependent care.
Sec. 404. Employment and training.

TITLE V—DEMONSTRATION PROJECTS

Sec. 501. Farmers' market coupons demonstration project.
Sec. 502. Food bank demonstration project.
Sec. 503. Family or group day care home demonstration project.
Sec. 504. Demonstration projects for development and use of intelligent computer benefit cards to pay food stamp benefits.
Sec. 505. Study of the effectiveness of the food stamp employment and training program.

TITLE VI—IMPROVING PAYMENT ACCURACY

Sec. 601. Review of State program investment when settling claims.
Sec. 602. Interest on claims against State agencies.
Sec. 603. Administrative and judicial review.
Sec. 604. Payment accuracy improvement system.

TITLE VII—IMPLEMENTATION

102 STAT. 1647 Sec. 701. Effective dates.

TITLE I—EMERGENCY HUNGER PREVENTION

Subtitle A—Temporary Emergency Food Assistance Program

SEC. 101. DOMESTIC USE AS A HIGHER PRIORITY THAN FOREIGN SALES.

Section 202 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new subsection:

Dairy products.

"(f) Notwithstanding any other provision of law, the programs authorized by sections 153 and 1163 of the Food Security Act of 1985 (15 U.S.C. 713a-14 and 7 U.S.C. 1731 note) shall not be operated in a manner that will, in any way, reduce the quantities of dairy products that traditionally are made available to carry out this Act or any other domestic feeding program.".

SEC. 102. SUPPLEMENTATION OF COMMODITIES.

The Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding after section 203C the following new section:

"SEC. 203D. STATE AND LOCAL SUPPLEMENTATION OF COMMODITIES.

"(a) AUTHORIZATION.—The Secretary shall establish procedures under which State and local agencies, charitable institutions, or any other persons may supplement the commodities distributed under the program authorized by this Act for use by emergency feeding organizations with nutritious and wholesome commodities that such entities or persons donate to State agencies and emergency feeding organizations for distribution, in all or part of the State, in addition to the commodities otherwise made available under this Act.

"(b) USE OF FUNDS AND FACILITIES.—States and emergency feeding organizations may use the funds appropriated under this Act and equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this Act, and the personnel, both paid or volunteer, involved in such storage, handling, or distribution, to store, handle or distribute commodities donated for the use of emergency feeding organizations under subsection (a).

"(c) VOLUNTEER WORKERS.—State and emergency feeding organizations shall continue, to the maximum extent practicable, to use volunteer workers and commodities and other foodstuffs donated by charitable and other organizations in the operation of the program authorized by this section.".

SEC. 103. EXTENSION OF TEFAP.

(a) AUTHORIZATION.—The first sentence of section 204(c)(1) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out "through September 30, 1988" and inserting in lieu thereof "through September 30, 1990".

(b) LOCAL SUPPORT.—The first sentence of section 204(c)(2) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out "20" and inserting in lieu thereof "40". 102 STAT. 1648

(c) STORAGE AND PREPARATION.—The second sentence of section 204(c)(2) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by inserting after "documentation;" the following: "costs of providing information to persons receiving commodities under this Act concerning the appropriate storage and preparation of such commodities;".

(d) NOTICE OF AVAILABILITY OF COMMODITIES.—Section 210(c) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out "the fiscal year ending September 30, 1988" and inserting "each of the fiscal years 1989 and 1990".

(e) PROGRAM DATES.—Section 212 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out "1988" and inserting in lieu thereof "1990".

SEC. 104. ADDITIONAL COMMODITIES PROGRAM.

The Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new sections:

"SEC. 213. INCORPORATION OF ADDITIONAL COMMODITIES.

"(a) IN GENERAL.—The Secretary shall administer the program authorized under this Act in a manner that incorporates into the program additional commodities purchased by the Secretary under section 214 to be distributed to States for use in such States by emergency feeding organizations, as defined in section 201A(1). Such additional commodities, to the extent practicable and appropriate, shall include commodities purchased within a given State for distribution within such State.

"(b) SUPPLEMENT COMMODITIES AVAILABLE.—The Secretary shall supplement the commodities made available to emergency feeding organizations under sections 202 and 203D(a) with nutritious and useful commodities purchased by the Secretary under section 214.

"SEC. 214. REQUIRED PURCHASES OF COMMODITIES.

"(a) PURPOSE.—It is the purpose of this section to establish a formula so that the amount, measured by their value, of additional commodities that are to be allocated to each State can be precisely calculated for fiscal years 1989 and 1990. The share of commodities, as measured by their value, to be allocated to each State shall be based 60 percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the State.

"(b) DEFINITIONS.—As used in this section—

"(1) ADDITIONAL COMMODITIES.—The term 'additional commodities' means commodities purchased under this section in addition to the commodities otherwise made available under sections 202 and 203D(a).

"(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term 'average monthly number of unemployed persons' refers to the average monthly number of unemployed persons within each State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

"(3) POVERTY LINE.—The term 'poverty line' has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

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"(4) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term 'total value of additional commodities' means the actual cost (including the distribution and processing costs incurred by the Secretary), as paid by the Secretary, for all additional commodities purchased under subsection (e).

"(5) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.—The term 'value of additional commodities allocated to each State' means the actual cost for additional commodities (including the distribution and processing costs incurred by the Secretary) as paid by the Secretary under this section and allocated to such State.

"(c) PURCHASE OF COMMODITIES.—The Secretary shall purchase a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c note), to supplement the commodities otherwise provided under the program authorized by this Act.

"(d) TYPES AND VARIETIES.—The Secretary shall, to the extent practicable and appropriate, purchase types and varieties of commodities—

"(1) with high nutrient density per calorie;

"(2) that are easily and safely stored;

"(3) that are convenient to use and consume;

"(4) that are desired by recipient agencies; and

"(5) that meet the requirement imposed by section 203C(a).

"(e) AMOUNTS.—During each of the fiscal years 1989 and 1990, the Secretary shall spend $120,000,000 to purchase, process, and distribute additional commodities under this section.

"(f) MANDATORY ALLOTMENTS.—In each fiscal year, the Secretary shall allot—

"(1) 60 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 60 percent of the total value of additional commodities as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line, and each State shall be entitled to receive such value of additional commodities; and

"(2) 40 percent of the total value of additional commodities provided to States in a manner such that the value of additional

commodities allocated to each State bears the same ratio to 40 percent of the total value of additional commodities as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year, and each State shall be entitled to receive such value of additional commodities.

"(g) REALLOCATION.—The Secretary shall notify each State of the amount of the additional commodities that such State is allotted to receive under subsection (f) or subsection (j) if applicable, and each State shall promptly notify the Secretary if such State determines that it will not accept any or all of the commodities made available under such allocation. On such a notification by a State, the Secretary shall reallocate and distribute the amount the State was allocated to receive under the formula prescribed in subsection (f) but declined to accept. The Secretary shall further establish procedures to permit States to decline to receive portions of such allocation during each fiscal year as the State determines is appropriate and the Secretary shall reallocate and distribute such allocation. In the event of any drought, flood, hurricane, or other natural disaster affecting substantial numbers of persons in a State, county or parish, the Secretary may request that States unaffected by such a disaster consider assisting affected States by allowing the Secretary to reallocate commodities to which each such unaffected State is entitled to States containing areas adversely affected by the disaster.

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Disaster assistance

"(h) ADMINISTRATION.—Subject to subsections (e) and (f), or subsection (j) if applicable, purchases under this section shall be made by the Secretary at such times and under such conditions as the Secretary determines appropriate within each fiscal year. All such commodities purchased for each such fiscal year shall be delivered at reasonable intervals to States based on the allotments calculated under subsection (f), or reallocated under subsection (g), or calculated under subsection (j) if applicable, before the end of such fiscal year. Each State shall be entitled to receive that value of additional commodities that results from the application of the formula set forth in this section to the total value of additional commodities.

"(i) MAINTENANCE OF EFFORT.—If a State uses its own funds to provide commodities or services to organizations receiving funds or services under this section, such State shall not diminish the level of support it provides to such organizations or reduce the amount of funds available for other nutrition programs in the State in each fiscal year.

"(j) NEW FORMULA.—Notwithstanding the provisions of this section that set forth the specific formula for allocating additional commodities to each State, the Secretary is authorized to promulgate a different precise formula, after prior notice and comment as required by section 553 of title 5, United States Code, only to the extent that—

"(1) any such formula is effective at the outset of, and throughout any given fiscal year;

"(2) any such formula can be used to precisely calculate the amount of commodities to be made available to each State by the Secretary for each fiscal year; and

"(3) such formula provides that each State is entitled to receive that value of additional commodities which results from the application of such formula to the total value of additional commodities.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 105. DISTRIBUTION COSTS AND REGULATIONS.

(a) DISTRIBUTION COSTS.—Section 204(c)(1) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by

adding at the end thereof the following new sentence: "States may also use funds provided under this paragraph to pay for the costs associated with the distribution of commodities under the program
102 STAT. 1651 authorized under section 110 of the Hunger Prevention Act of 1988, and to pay for the costs associated with the distribution of additional commodities provided pursuant to section 214.".

(b) REGULATIONS.—Section 210 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new subsection:

"(e) The Secretary is authorized to issue final regulations without first issuing proposed regulations (except as otherwise provided for in section 214(j)) for public comment in order to carry out the provisions of sections 213 and 214. If final regulations are issued without such prior public comment the Secretary shall permit public comment on such regulations, consider pertinent comments, and make modifications of such regulations as appropriate not later than 1 year after the date of enactment of this subsection. Such final and modified regulations shall be accompanied by a statement of the basis and purpose for such regulations.".

(c) STATE OPTIONAL PRIORITY.—Section 203B(a) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new sentence: 'Notwithstanding any other provision of this Act, in the distribution of commodities under this Act, each State agency shall have the option to give priority to existing food bank networks and other organizations whose ongoing primary function is to facilitate the distribution of food to low-income households, including food from sources other than the Department of Agriculture.".

SEC. 106. EXTENSION OF DAIRY EXPORT INCENTIVE PROGRAM.

Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a-14(a)) is amended by striking out "1989" and inserting in lieu thereof "1990".

SEC. 107. EXTENSION OF EXPORT SALES OF DAIRY PRODUCTS.

Section 1163 of the Food Security Act of 1985 (7 U.S.C. 1731 note) is amended—

(1) in subsection (a), by striking out "fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988" and inserting in lieu thereof "fiscal years 1986 through 1990"; and

(2) in subsection (c), by striking out "1988" and inserting in lieu thereof "1990".

Subtitle B—Soup Kitchens and Other Emergency Food Aid

7 USC 612c note. SEC. 110. SOUP KITCHENS AND FOOD BANKS

(a) PURPOSE.—It is the purpose of this section to establish a formula so that the amount, measured by their value, of additional commodities that are to be provided to each State for redistribution to soup kitchens and food banks can be precisely calculated for fiscal years 1989 through 1991. The share of commodities, as measured by their value, to be provided to each State shall be based 60 percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the State.

102 STAT. 1652 (b) DEFINITIONS.—As used in this section—

(1) ADDITIONAL COMMODITIES.—The term "additional commodities" means commodities purchased under this section in addition to the commodities otherwise made available to soup kitchens and food banks providing nutrition assistance to relieve situations of emergency and distress.

(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term "average monthly number of unemployed persons" refers to the average monthly number of unemployed persons within each State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

(3) FOOD BANKS.—The term "food bank" refers to public and charitable institutions that maintain an established operation involving the provision of food or edible commodities, or the products thereof, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that provide meals or food to needy persons on a regular basis as an integral part of their normal activities.

(4) POVERTY LINE.—The term "poverty line" has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(6) SOUP KITCHENS.—The term "soup kitchens" refers to public and charitable institutions that maintain an established feeding operation to provide food to needy homeless persons on a regular basis as an integral part of their normal activities.

(7) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term "total value of additional commodities" means the actual cost (including the processing and distribution costs of the Secretary), as paid by the Secretary, for all additional commodities purchased under subsection (c).

(8) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO A STATE.—The term "value of additional commodities allocated to a State" means the actual cost for additional commodities (including the processing and distribution costs of the Secretary) as paid by the Secretary for commodities purchased under this section and allocated to such State.

(c) AMOUNTS.—During each of the fiscal years 1989 and 1990, the Secretary shall spend $40,000,000, and in fiscal year 1991, the Secretary shall spend $32,000,000, to purchase, process, and distribute additional commodities to States for distribution to soup kitchens and food banks within a given State that provide nutrition assistance to relieve situations of emergency and distress through the provision of food and meals to needy persons.

(d) MANDATORY ALLOTMENTS.—In each fiscal year, the Secretary shall allot—

(1) 60 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 60 percent of the total value of additional commodities as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line, and each State shall be entitled to receive such value of additional commodities; and

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(2) 40 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 40 percent of the total value of additional commodities as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year, and each State shall be entitled to receive such value of additional commodities.

(e) ALLOCATION AND REALLOCATION.—

(1) NOTIFICATION BY SECRETARY.—The Secretary shall notify each State of the amount of the allocation that the State is entitled to receive under subsection (d).

Homeless persons.

(2) NOTIFICATION BY STATE.—

(A) ACCEPTANCE AMOUNT.—A State shall promptly notify the Secretary of the amount of commodities that will be accepted by soup kitchens or food banks. In determining such amount, the State shall give priority to institutions that provide meals to homeless individuals.

(B) LESS THAN FULL AMOUNT ACCEPTED.—A State shall promptly notify the Secretary if the State determines that it will not accept the full amount of the allocation under subsection (d) (or a portion thereof).

(3) REALLOCATION.—Whenever the Secretary receives a notification under paragraph (2)(B), the Secretary shall reallocate and distribute the amount of such allocation (or any portion thereof) not accepted, in a fair and equitable manner among the States that accept the full amount of their respective allocations under subsection (d) and that have requested receipt of additional allocations.

(f) ADMINISTRATION.—Subject to subsection (c), purchases under this section shall be made by the Secretary at such times and under such conditions as the Secretary determines to be appropriate within each fiscal year. All commodities purchased under subsection (c) within each fiscal year shall be provided to States prior to the end of each such fiscal year.

(g) MAINTENANCE OF EFFORT.—If a State uses its own funds to provide commodities or services under this section, such State funds shall not be obtained from existing Federal or State programs.

(h) INCREASED COMMODITY LEVELS AND MAINTENANCE OF EFFORT.—

(1) INCREASED COMMODITY LEVELS.—Commodities provided under the amendments made by section 104 and under this section shall be in addition to the commodities otherwise provided (through commodity donations traditionally provided by the Secretary or the Commodity Credit Corporation) to emergency feeding organizations. The value of the commodity donations traditionally provided to such organizations shall not be diminished as a result of the purchases required by the amendments made by section 104 and this section.

(2) FEDERAL MAINTENANCE.—The purchase of commodities required under the amendments made by section 104 and under this section, shall not be made in such a manner as to cause any reduction in the value of the bonus commodities that would otherwise be distributed, in the absence of section 104 and this section, to charitable institutions, or to any other domestic food assistance program, such as the programs authorized under the National School Lunch Act, the Child Nutrition Act of 1966, the Food Stamp Act of 1977, or sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973.

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(3) OTHER MAINTENANCE.—Local agencies receiving commodities purchased under this section shall provide an assurance to the State that donations of foodstuffs from other sources shall not be diminished as a result of the receipt of commodities under this section.

(i) NEW FORMULA.—Notwithstanding the provisions of this section that set forth the specific formula for allocating additional commodities to each State, the Secretary is authorized to establish a different precise formula, after prior notice and comment as required by section 553 of title 5, United States Code, only to the extent that—

(1) any such formula is effective at the outset of, and throughout any given fiscal year;

(2) any such formula can be used to precisely calculate the amount of commodities to be made available to each State by the Secretary for each fiscal year; and

(3) such formula provides that each State is entitled to receive that value of additional commodities which results from the application of such formula to the total value of additional commodities.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 111. GLEANING TECHNICAL ASSISTANCE. 7 USC 612c note.

(a) GLEANING DEFINED.—As used in this section, the term "gleaning" means—

(1) obtaining harvested or unharvested agricultural products from farmers, processors, or retailers; or

(2) obtaining food or meals donated by public or private entities (where State and local health and food safety regulations permit such donations);

in order to facilitate the distribution of such products or such food or meals to needy individuals, but only if such products or such food or meals, and the access to such, are obtained with the permission of the owner and without charge therefor.

(b) DUTIES.—The Secretary of Agriculture shall provide technical assistance to State and local agencies to—

(1) assist such agencies in encouraging public and private nonprofit organizations to initiate and carry out gleaning activities and in providing technical assistance to organizations and individuals involved in gleaning; and

(2) assist such agencies in collecting information on the kinds, amounts, and geographical location of agricultural products and food or meals available for gleaning.

(c) ADMINISTRATION.—The Secretary of Agriculture may use Department of Agriculture employees and volunteers, as may be necessary, to carry out this section. Voluntarism.

(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $500,000 for each of fiscal years 1989 and 1990.

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Subtitle C—Basic Food Stamp Benefit Levels

SEC. 120. THRIFTY FOOD PLAN.

Section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) in clause (7), by striking out "and" at the end thereof;

(2) in clause (8), by inserting "through October 1, 1987" after "thereafter"; and

(3) by striking out the colon and all that follows through the period at the end thereof and inserting in lieu thereof the following: ", (9) on October 1, 1988, adjust the cost of such diet to reflect 100.65 percent of the cost of the thrifty food plan in the preceding June, and round the result to the nearest lower dollar increment for each household size, (10) on October 1, 1989, adjust the cost of such diet to reflect 102.05 percent of the cost, in the preceding June (without regard to the adjustment made under clause (9)), of the then most recent thrifty food plan as determined by the Secretary or the cost of the thrifty food plan in effect on the date of enactment of the Hunger Prevention Act of 1988, whichever is greater, and round the result to the nearest lower dollar increment for each household size, and (11) on October 1, 1990, and each October 1 thereafter, adjust the cost of such diet to reflect 103 percent of the cost, in the preceding June (without regard to any previous adjustment made under clause (9), (10), or this clause), of the then most recent thrifty food plan as determined by the Secretary or the cost of the thrifty food plan in effect on the date of enactment of the Hunger Prevention Act of 1988, whichever is greater, and round the result to the nearest lower dollar increment for each household size.". Effective dates

Subtitle D—Commodity Supplemental Food Program

7 USC 612c note.

SEC. 130. CONTINUATION OF PROVISION OF CHEESE SUPPLIES.

Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation's inventory levels permit, provide 7,000,000 pounds of cheese in each of the fiscal years 1989 and 1990 to the Secretary of Agriculture and the Secretary shall provide such amounts of cheese to the Commodity Supplemental Food Program authorized under section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) before the end of each fiscal year.

TITLE II—NUTRITION IMPROVEMENTS

Subtitle A—Food Stamp Act of 1977

SEC. 201. CATEGORICAL ELIGIBILITY.

The second sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended—

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(1) by striking out "during the period"; and

(2) by striking out "and ending on September 30, 1989".

SEC. 202. REPORTING REQUIREMENTS AND CALCULATION OF HOUSEHOLD INCOME.

(a) CALCULATION OF HOUSEHOLD INCOME.—Section 5(f) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2)(A) Households not required to submit monthly reports of their income and household circumstances under section 6(c)(1) shall have their income calculated on a prospective basis, as provided in paragraph (3)(A).

"(B) Households required to submit monthly reports of their income and household circumstances under section 6(c)(1) shall have their income calculated on a retrospective basis, as provided in paragraph (3)(B), except that in the case of the first month, or at the option of the State the first and second months, in a continuous period in which a household is certified, the State agency shall determine the amount of benefits on the basis of the household's income and other relevant circumstances in such first or second month.".

(b) OPTIONAL MONTHLY REPORTING.—Section 6(c) of such Act (7 U.S.C. 2015(c)) is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1)(A) A State agency may require certain categories of households to file periodic reports of income and household circumstances in accordance with standards prescribed by the Secretary, except that a State agency may not require periodic reporting by—

"(i) migrant or seasonal farmworker households;

Homeless persons.

"(ii) households in which all members are homeless individuals; or

Aged persons. Handicapped persons.

"(iii) households that have no earned income and in which all adult members are elderly or disabled.

"(B) Each household that is not required to file such periodic reports on a monthly basis shall be required to report or cause to be reported to the State agency changes in income or household circumstances that the Secretary considers necessary to assure accurate eligibility and benefit determinations.".

(c) MONTHLY NOTICE.—Section 6(c)(2) of such Act (7 U.S.C. 2015(c)(2)) is amended—

(1) by striking out "and (D)" and inserting "(D)"; and

(2) by inserting before the period the following: ", and (E) be provided each month (or other applicable period) with an appropriate, simple form for making the required reports of the household together with clear instructions explaining how to complete the form and the rights and responsibilities of the household under any periodic reporting system". Reports.

SEC. 203. BENEFITS FOR HOUSEHOLDS SUBJECT TO PRORATING.

(a) IN GENERAL.—Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(1) by designating the first and second sentences as paragraphs (1) and (2), respectively;

(2) in paragraph (2) (as so redesignated), by redesignating clauses (1), (2), and (3) as subparagraphs (A), (B), and (C) respectively; and

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(3) by adding at the end thereof the following new paragraph: "(3) An eligible household applying after the 15th day of the month shall receive, in lieu of its initial allotment and its regular allotment for the following month, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraphs (3) and (9) of section 11(e).".

(b) CONFORMING AMENDMENT.—Section 7(h) is amended— 7 USC 2016.

(1) by striking out "(1)"; and

(2) by repealing paragraph (2).

SEC. 204. OPTIONAL FOOD STAMP INFORMATION ACTIVITIES.

(a) OPTIONAL INFORMATION ACTIVITIES.—Subparagraph (A) of section 11(e)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(1)(A)) is amended to read as follows: "(A) at the option of the State agency, inform low-income households about the availability, eligibility requirements, application procedures, and benefits of the food stamp program; and".

(b) ADMINISTRATIVE COSTS.—Section 16(a)(4) of such Act (7 U.S.C. 2025(a)(4)) is amended by striking out "permitted" and inserting in lieu thereof ", including those undertaken".

SEC. 205. EXTENSION OF HOMELESS AMENDMENTS.

Section 11002(f)(3) of the Homeless Eligibility Clarification Act (7 U.S.C. 2012 note) is amended by inserting ", except those amendments made by subsection (b)," after "this section".

Subtitle B—Child Nutrition Act of 1966, and National School Lunch Act

SEC. 210. IMPROVEMENT OF SCHOOL BREAKFAST PROGRAM.

The first sentence of section 4(b)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(3)) is amended by striking out "3 cents" and inserting in lieu thereof "6 cents".

SEC. 211. ADDITION OF ONE SNACK OR ONE MEAL TO THE CHILD CARE FOOD PROGRAM.

Section 17(f)(2)(B) of the National School Lunch Act (42 U.S.C. 1766(f)(2)(B)) is amended by inserting before the period the following: ", or in the case of an institution (but not in the case of a family or group day care home sponsoring organization), two meals and two supplements or three meals and one supplement per day per child, for children that are maintained in a child care setting for eight or more hours per day.".

SEC. 212. ACCESS OF HOMELESS WOMEN, INFANTS, AND CHILDREN TO THE SPECIAL SUPPLEMENTAL FOOD PROGRAM.

(a) DEFINITIONS.—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by adding at the end thereof the following new paragraph:

"(15) 'Homeless individual' means—

"(A) an individual who lacks a fixed and regular nighttime residence; or

"(B) an individual whose primary nighttime residence is—

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"(i) a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;

"(ii) an institution that provides a temporary residence for individuals intended to be institutionalized;

"(iii) a temporary accommodation in the residence of another individual; or

"(iv) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.".

(b) GENERAL AUTHORITY.—The last sentence of section 17(c)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)(1)) is amended to read as follows: "The program shall be supplementary to—

"(A) the food stamp program;

"(B) any program under which foods are distributed to needy families in lieu of food stamps; and

"(C) receipt of food or meals from soup kitchens, or shelters, or other forms of emergency food assistance.".

Homeless persons.

(c) STATE ADMINISTRATION.—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended—

(1) in paragraph (1)(C)(iv), by striking out "migrants" and inserting in lieu thereof "migrants, homeless individuals,";

(2) in paragraph (8)(A), by inserting "organizations and agencies serving homeless individuals and shelters for victims of domestic violence," after "Indian tribal organizations,";

(3) in paragraph (13), by striking out "cultural eating patterns." and inserting in lieu thereof the following: "cultural eating patterns, and, in the case of homeless individuals, the special needs and problems of such individuals."; and

(4) by adding at the end thereof the following new paragraph:

"(17) The State agency may adopt methods of delivering benefits to accommodate the special needs and problems of homeless individuals.".

SEC. 213. SUMMER FEEDING PROGRAM.

Schools and colleges.

(a) ELIGIBLE SERVICE INSTITUTIONS.—Section 13(a)(1) of the National School Lunch Act (42 U.S.C. 1761(a)(1)) is amended in subparagraph (B), by inserting ", public or private nonprofit higher education institutions participating in the National Youth Sports Program," after "county governments".

(b) ELIGIBLE PRIVATE NONPROFIT ORGANIZATIONS.—Section 13(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) Not later than May 1, 1989, the Secretary shall institute Statewide demonstration projects in five States in which private nonprofit organizations, as defined in subparagraph (B) (other than organizations already eligible under section 13(a)(1)), shall be eligible for the program under the same terms and conditions as other service institutions.

"(B) As used in this paragraph, the term 'private nonprofit organizations' means those organizations that—

"(i) serve no more than 2,500 children per day and operate at not more than 5 sites;

"(ii) use self-preparation facilities to prepare meals, or obtain meals from a public facility (such as a school district, public hospital, or State university);

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"(iii) operate in areas where a school food authority or the local, municipal, or county government has not indicated by March 1 of any year that such authority or unit of local government will operate a program under this section in such year;

"(iv) exercise full control and authority over the operation of the program at all sites under their sponsorship;

"(v) provide ongoing year-around activities for children;

"(vi) demonstrate that such organizations have adequate management and the fiscal capacity to operate a program under this section; and

"(vii) meet applicable State and local health, safety, and sanitation standards.". Public health and safety.

SEC. 214. DEPARTMENT OF DEFENSE CHILD CARE FEEDING PROGRAM.

Section 17(h) of the National School Lunch Act (42 U.S.C. 1766(h)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary is authorized to provide agricultural commodities obtained by the Secretary under the provisions of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) and donated under the provisions of section 416 of such Act, to the Department of Defense for use by its institutions providing child care services, when such commodities are in excess of the quantities needed to meet the needs of all other child nutrition programs, domestic and foreign food assistance and export enhancement programs. The Secretary shall require reimbursement from the Department of Defense for the costs, or some portion thereof, of delivering such commodities to overseas locations, unless the Secretary determines that it is in the best interest of the program that the Department of Agriculture shall assume such costs.".

Subtitle C—Food Processing and Distribution

SEC. 220. ENCOURAGEMENT OF FOOD PROCESSING AND DISTRIBUTION BY ELIGIBLE RECIPIENT AGENCIES. 7 USC 612c note.

(a) SOLICITATION OF APPLICATIONS.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Agriculture shall, to the extent that the Commodity Credit Corporation's inventory levels permit, solicit applications, in accordance with paragraph (2), for surplus commodities available for distribution under section 202 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note).

(2) REQUIREMENTS.—The solicitation by the Secretary of Agriculture under paragraph (1) shall be in the form of a request that any eligible recipient agency (as defined in section 201A of the Temporary Emergency Food Assistance Act of 1983) submit an application to the Secretary that shall include an assurance that such agency will—

(A) process any agricultural commodity received in response to such application into end-use products suitable for distribution through the Temporary Emergency Food Assistance Program;

(B) package such products for use by individual households; and

(C) distribute such products to State agencies responsible for the administration of the Temporary Emergency Food Assistance Program, at no cost to the State agency, for distribution through the Temporary Emergency Food Assistance Program.

(3) PROHIBITION ON PAYMENT OF PROCESSING COSTS.—Funds made available under section 204 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) or funds of the Commodity Credit Corporation shall not be used to pay any costs incurred for the processing, storage, transportation or distribution of the commodities or end-use products prior to their delivery to the State agency.

(b) REVIEW OF APPLICATIONS.—

(1) TIME OF REVIEW.—Not later than 60 days after the Secretary of Agriculture receives an application solicited under subsection (a), the Secretary shall approve or disapprove such application.

(2) NOTICE OF DISAPPROVAL.—If the Secretary disapproves the application submitted under subsection (a), the Secretary shall inform the applicant of the reasons for such disapproval.

TITLE III—ADMINISTRATIVE IMPROVEMENTS AND SIMPLIFICATION

SEC. 301. REFERENCES TO THE FOOD STAMP ACT OF 1977.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

Subtitle A—Reducing Unnecessary Paperwork

SEC. 310. SIMPLIFIED APPLICATION FORMS.

Section 11(e)(2) (7 U.S.C. 2020(e)(2)), is amended by inserting after "exigencies as determined by the Secretary" the following: ", and in approving such deviation, the Secretary takes into account whether such State forms are easy to use, brief and readable. In consultation with the Secretary of Health and Human Services, the Secretary shall develop a program to provide assistance to States that request assistance in the development of brief, simply-written and readable application forms including application forms that cover the food stamp program, the aid to families with dependent children program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and medical assistance programs administered by the Secretary of Health and Human Services under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.). Each food stamp application form shall contain, in plain and prominent language on its front cover, a place where applicants can write their names, addresses, and signatures, and instructions in understandable terms informing households of their right to file the application without immediately completing additional sections, describing the expedited processing requirements of section 11(e)(9) and informing households that benefits are provided only from the date of application".

Health and medical care.

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SEC. 311. STATEMENT OF REQUIRED VERIFICATION.

Section 11(e)(3) (7 U.S.C. 2020(e)(3)) is amended by inserting before the semicolon at the end thereof the following: ", and that the State agency shall—

"(A) provide each applicant household, at the time of application, a clear written statement explaining what acts the household must perform to cooperate in obtaining verification and otherwise completing the application process;

"(B) assist each applicant household in obtaining appropriate verification and completing the application process;

"(C) not require any household to submit additional proof of a matter on which the State agency already has current verification as determined under regulations issued by the Secretary, unless the State agency has reason to believe that the information possessed by the agency is inaccurate, incomplete, or inconsistent;

"(D) subject to subparagraph (E), not deny any application for participation under this program solely because of the failure of a person outside the household to cooperate

(other than an individual failing to cooperate who would otherwise be a household member but for the operation of any of the individual disqualification provisions of subsections (b), (d), (e), (f), and (g) of section 6; and

"(E) process applications if a household complies with the requirements of the first sentence of section 6(c), by taking appropriate steps to verify information otherwise required to be verified under this Act".

Subtitle B—Assuring Accurate Issuance of Benefits

SEC. 320. CORRECTING IMPROPER DENIALS AND UNDERISSUANCES.

Section 11 (7 U.S.C. 2020) is amended by adding at the end thereof the following new subsection:

"(p) When a State agency learns, through its own reviews under section 16 or other reviews, or through other sources, that it has improperly denied, terminated, or underissued benefits to an eligible household, the State agency shall promptly restore any improperly denied benefits to the extent required by sections 11(e)(11) and 14(b), and shall take other steps to prevent a recurrence of such errors where such error was caused by the application of State agency practices, rules or procedures inconsistent with the requirements of this Act or with regulations or policies of the Secretary issued under the authority of this Act.".

SEC. 321. SPECIAL TRAINING OF STATE PERSONNEL INVOLVED IN CERTIFYING FARM HOUSEHOLDS.

(a) TRAINING.—Section 11(e)(6) (7 U.S.C. 2020(e)(6)) is amended—

(1) by striking out "and (C)" at the end of subparagraph (B) and inserting in lieu thereof "(C)"; and

(2) by inserting at the end thereof the following: "(D) the State agency, at its option, may undertake intensive training to ensure that State agency personnel who undertake the certification of households that include a member who engages in farming are qualified to perform such certification;".

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(b) TRAINING MATERIALS.—Section 16 (7 U.S.C. 2025) is amended by adding at the end thereof the following new subsection:

"(k) Not later than 180 days after the date of the enactment of the Hunger Prevention Act of 1988, and annually thereafter, the Secretary shall publish instructional materials specifically designed to be used by the State agency to provide intensive training to State agency personnel who undertake the certification of households that include a member who engages in farming.".

(c) TECHNICAL CORRECTIONS.—Section 16 (7 U.S.C. 2025) is amended by redesignating subsection (h), as added by section 121(b)(5) of the Immigration Reform and Control Act of 1986, as subsection (j).

SEC. 322. TRAINING OF CERTIFICATION WORKERS AND COMMUNITY RESOURCES.

(a) TRAINING CERTIFICATION WORKERS.—Section 11(e)(6)(C) (7 U.S.C. 2020(e)(6)(C)) is amended—

(1) by striking out "undertake to"; and

(2) by inserting "so that eligible households are promptly and accurately certified to receive the allotments for which they are eligible under this Act" after "such certification".

(b) COMMUNITY RESOURCES.—Section 11(e)(6) (7 U.S.C. 2020(e)(6)) (as amended by section 321(a) and subsection (a)) is further amended by adding at the end thereof the following new subparagraph: "and (E) at its option, the State agency may provide, or contract for the provision of, training and assistance to persons working with volunteer or nonprofit organizations that provide program information activities or eligibility screening to persons potentially eligible for food stamps;".

Contracts.
Voluntarism.

SEC. 323. PREVENTING INCORRECT ISSUANCES.

Communications and telecommunications.

Section 11(e) (7 U.S.C. 2020(e)) (as amended by section 311) is further amended by inserting before the semicolon at the end of paragraph (3), the following: ", and that the State agency shall provide the household, at the time of each certification and recertification, with a statement describing the reporting responsibilities of the household under this Act, and provide a toll-free or local telephone number, or a telephone number at which collect calls will be accepted by the State agency, at which the household may reach an appropriate representative of the State agency".

Subtitle C—Reducing Barriers in Rural America

SEC. 330. TRANSPORTATION DIFFICULTIES IN RURAL AREAS.

Aged persons. Handicapped persons.

Section 11(e)(2) (7 U.S.C. 2020(e)(2)) (as amended by section 310), is further amended by striking out "The State Agency shall comply" and all that follows through "certified properly;" and inserting in lieu thereof the following new sentences: "The State agency shall waive in-office interviews, on a household's request, if a household is

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unable to appoint an authorized representative pursuant to paragraph (7) and has no adult household members able to come to the appropriate State agency office because such members are elderly, are mentally or physically handicapped, live in a location not served by a certification office, or have transportation difficulties or similar hardships as determined by the State agency (including hardships due to residing in a rural area, illness, care of a household member, prolonged severe weather, or work or training hours). If an in-office interview is waived, the State agency may conduct a telephone interview or a home visit. The State agency shall provide for telephone contact by, mail delivery of forms to, and mail return of forms by, households that have transportation difficulties or similar hardships.".

Communications and telecommunications. Mail.

Subtitle D—Eliminating Inequities for Farmers and Others

SEC. 340. CONTINUATION OF FOOD STAMPS TO PARTICIPANTS IN CASH-OUTS OF OTHER BENEFIT PROGRAMS.

Section 5(d)(1) (7 U.S.C. 2014(d)(1)) is amended—

(1) by striking out "and except as provided in subsection (k),", and

(2) by inserting after "to a household" the following: "(notwithstanding its conversion in whole or in part to direct payments to households pursuant to any demonstration project carried out or authorized under Federal law including demonstration projects created by the waiver of provisions of Federal law)".

SEC. 341. ANNUALIZING SELF-EMPLOYMENT INCOME AND EXPENSES FROM FARMING.

Section 5(f)(1)(A) (7 U.S.C. 2014(f)(1)(A)) is amended—

(1) in the second sentence by striking out "preceding" and inserting in lieu thereof "first"; and

(2) by inserting after the first sentence the following new sentence: "Notwithstanding the preceding sentence, household income resulting from the self-employment of a member in a farming operation, who derives income from such farming operation and who has irregular expenses to produce such income, may, at the option of the household, be calculated by averaging such income and expenses over a 12-month period.".

SEC. 342. HOUSEHOLDS IN TRANSITION.

Real property. Employment and unemployment.

Section 5(g) (7 U.S.C. 2014(g)) is amended by adding at the end thereof the following new sentence: "In the case of farm property (including land, equipment, and supplies) that is essential to the self-employment of a household member in a farming operation, the Secretary shall exclude from financial resources the value of such property until the expiration of the 1-year period beginning on the date such member ceases to be self-employed in farming.".

SEC. 343. TECHNICAL CORRECTION TO EXCLUSION OF ENERGY ASSISTANCE FROM FOOD STAMP INCOME.

Section 5(d)(11) (7 U.S.C. 2014(d)(11)) is amended—

(1) in the matter preceding subparagraph (A), by striking out "under" and inserting in lieu thereof "for the purpose of providing energy assistance";

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(2) in subparagraph (A), to read as follows: "(A) under any Federal law, or"; and

(3) in subparagraph (B)—

(A) by striking out "any" and inserting in lieu thereof "under any"; and

(B) by striking out "for the purpose of providing energy assistance".

SEC. 344. CIVIL MONEY PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 12(b)(3) (7 U.S.C. 2021(b)(3)) is amended to read as follows:

"(3) permanent upon—

"(A) the third occasion of disqualification; or

"(B) the first occasion or any subsequent occasion of a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards by a retail food store or wholesale food concern, except that the Secretary shall have the discretion to impose a civil money penalty of up to $20,000 in lieu of disqualification under this subparagraph, for such purchase of coupons or trafficking in coupons or cards that constitutes a violation of the provisions of this Act or the regulations issued pursuant to this Act, if the Secretary determines that there is substantial evidence that such store or food concern had an effective policy and program in effect to prevent violations of the Act and the regulations.".

Subtitle E—Reducing Barriers for the Elderly and Disabled

SEC. 350. DISABLED PERSONS RECEIVING BENEFITS UNDER STANDARDS AT LEAST AS STRINGENT AS THOSE IN THE SOCIAL SECURITY ACT.

Paragraph (2) of section 3(r) (7 U.S.C. 2012(r)) is amended to read as follows:

"(2)(A) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or Federally or State administered supplemental benefits of the type described in section 212(a) of Public Law 93-66 (42 U.S.C. 1382 note), or

Blind persons.

"(B) receives Federally or State administered supplemental assistance of the type described in section 1616(a) of the Social Security Act (42 U.S.C. 1382e(a)), interim assistance pending receipt of supplemental security income, disability-related medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), or disability-based State general assistance benefits, if the Secretary determines that such benefits are conditioned on meeting disability or blindness criteria at least as stringent as those used under title XVI of the Social Security Act;".

SEC. 351. SIMPLIFIED PROCEDURE FOR CLAIMING EXCESS MEDICAL DEDUCTION.

Section 5(e) (7 U.S.C. 2014(e)) is amended by adding at the end
102 STAT. 1665 thereof the following new sentences: "State agencies shall offer eligible households a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction provided for in subparagraph (A), in lieu of submitting information or verification on actual expenses on a monthly basis. The method described in the preceding sentence shall be designed to minimize the administrative burden for eligible elderly and disabled household members choosing to deduct their recurrent medical expenses pursuant to such method.".

SEC. 352. COORDINATED APPLICATION.

The second sentence of section 11(i) (7 U.S.C. 2020(i)) is amended to read as follows: "In addition to implementing paragraphs (1) through (4), the State agency shall inform applicants for benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that such applicants may file, along with their application for such benefits, an application for benefits under this Act, and that if such applicants file, they shall have a single interview for food stamps and for benefits under part A of title IV of the Social Security Act.".

TITLE IV—FAMILY SELF-SUFFICIENCY

SEC. 401. REFERENCES TO THE FOOD STAMP ACT OF 1977.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

SEC. 402. EXCLUSION FOR ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Section 5(d) (7 U.S.C. 2014(d)) is amended—

(1) by striking out "and (13)" and inserting in lieu thereof "(13)"; and

(2) by inserting before the period at the end thereof the following: ", (14) any payment made to the household under section 3507 of the Internal Revenue Code of 1986 (relating to advance payment of earned income credit)".

SEC. 403. DEDUCTION FOR DEPENDENT CARE.

(a) IN GENERAL.—Section 5(d) (7 U.S.C. 2014(d)) (as amended by section 402) is further amended by inserting before the period at the end thereof the following: ", and (15) any payment made to the household under section 6(d)(4)(I) for work related expenses or for dependent care".

(b) DEDUCTION.—Section 5(e) (7 U.S.C. 2014(e)) is amended—

(1) in the matter preceding paragraph (1) of the fourth sentence by inserting "and expenses that are paid under section 6(d)(4)(I) for dependent care" after "third party"; and

(2) in paragraph (1) of the fourth sentence, by inserting after "$160 a month" the following: "for each dependent".

SEC. 404. EMPLOYMENT AND TRAINING.

(a) COMPONENTS OF EMPLOYMENT AND TRAINING PROGRAMS.—Sec-
102 STAT. 1666 tion 6(d)(4)(B) (7 U.S.C. 2015(d)(4)(B)) is amended—

(1) in clause (i), by striking out "have no obligation" through "State agency shall";

(2) in clause (v)—

(A) by inserting "or the State under regulations issued by the Secretary," after "the Secretary"; and

(B) by inserting "employment, educational and training" after "other";

(3) by redesignating clause (v) (as amended by paragraph (2)) as clause (vi); and

(4) by inserting after clause (iv), the following new clause:

"(v) Educational programs or activities to improve basic skills or otherwise improve employability, including educational programs determined by the State agency to expand the job search abilities or employability of those subject to the program under this paragraph.". Education.

(b) EMPLOYMENT ASSIGNMENTS AND CONCILIATION.—Section 6(d)(4) (7 U.S.C. 2015(d)(4)) is amended—

(1) by redesignating subparagraphs (H), (I), (J), (K), and (L) as subparagraphs (I), (J), (K), (M) and (N), respectively; and

(2) by inserting after subparagraph (G), the following new subparagraph:

"(H)(i) The Secretary shall issue regulations under which each State agency shall establish a conciliation procedure for the resolution of disputes involving the participation of an individual in the program. Regulations.

"(ii) Federal funds made available to a State agency for purposes of the component authorized under subparagraph (B)(v) shall not be used to supplant non-Federal funds used for existing services and activities that promote the purposes of this component.".

(c) PARTICIPANTS' EXPENSES.—Section 6(d)(4)(I) (as redesignated by subsection (b) of this section), is amended to read as follows:

"(I)(i) The State agency shall provide payments or reimbursements to participants in programs carried out under this paragraph, including individuals participating under subparagraph (G), for— Grants.

"(I) the actual costs of transportation and other actual costs (other than dependent care costs), that are reasonably necessary and directly related to participation in the program, except that the State agency may limit such reimbursement to each participant to $25 per month; and Transportation.

"(II) the actual costs of such dependent care expenses that are determined by the State agency to be necessary for the participation of an individual in the program (other than an individual who is the caretaker relative of a dependent in a family receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) in a local area where an employment, training, or education program under title IV of such Act is in operation or was in operation, on the date of enactment of the Hunger Prevention Act of 1988, but in no event shall such payment or reimbursements exceed $160 per dependent per month. Individuals subject to the program under this paragraph may not be required to participate if dependent care costs exceed $160 per dependent per month.

"(ii) In lieu of providing reimbursements or payments for dependent care expenses under clause (i), a State agency may, at its option, arrange for dependent care through providers by the use of purchase of service contracts or vouchers or by providing vouchers to the household. Contracts.

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"(iii) The value of any dependent care services provided for or arranged under clause (ii), or any amount received as a payment or reimbursement under clause (i), shall—

"(I) not be treated as income for the purposes of any other Federal or federally assisted program that bases eligibility for, or the amount of benefits on, need; and

"(II) not be claimed as an employment-related expense for the purposes of the credit provided under section 21 of the Internal Revenue Code of 1986.".

(d) PERFORMANCE STANDARDS AND PARTICIPATION STANDARDS.—Section 6(d)(4) (7 U.S.C. 2015(d)(4)) is amended by inserting after subparagraph (K) (as redesignated by subsection (b)) the following new subparagraph:

"(L)(i) The Secretary shall establish, in accordance with this subparagraph, performance standards that are applicable to employment and training programs carried out under this paragraph.

"(ii) The performance standards referred to in clause (i) shall be developed by the Secretary after consultation with the Office of Technology Assessment, the Secretary of Labor, the Secretary of Health and Human Services, appropriate State officials designated for purposes of this clause by the chief executive officers of the States, other appropriate experts, and representatives of households participating in the food stamp program. Such performance standards (which shall be coordinated with the corresponding performance standards under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) and the performance standards under title IV of the Social Security Act (42 U.S.C. 601 et seq.), taking into consideration the differing characteristics of such households)—

"(I) shall be measured by employment outcomes and shall be based on the degree of success that may reasonably be expected of States (in carrying out employment and training programs) in helping individuals to achieve self-sufficiency;

"(II) shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph, job placement rates, wage rates, job retention rates, households ceasing to need benefits under this Act, and improvements in household members' educational levels;

"(III) shall encourage States to serve those individuals who have greater barriers to employment and thus have greater difficulties in achieving self-sufficiency; and

"(IV) shall include guidelines permitting appropriate variations that take into account the differing conditions (including unemployment rates and rates of elective participation under subparagraph (G) in employment and training programs under this paragraph) that may exist in different States.

"(iii) Final measures for the performance standards referred to in clause (i) shall be published by the Secretary, after the consideration of public comments concerning the proposed measures for such performance standards, and implemented by the States not later than April 1, 1991.

"(iv) The performance standards developed and issued under clause (ii) shall be varied in any State, to the extent permitted under clause (ii)(IV), to the extent necessary to take into account specific economic, geographic, and demographic factors in the State, the characteristics of the population to be served, and the types of services to be provided.

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Effective date. Termination date.

"(v) The performance standards in effect under subparagraph (K) shall remain in effect during the period beginning on October 1, 1988, and ending on the date the Secretary implements the performance standards required to be issued under this subparagraph on which date the authority to issue such standards shall expire.

"(vi) Not later than 180 days after the Secretary publishes the proposed measures for the performance standards under this subparagraph, the Office of Technology Assessment shall—

"(I) develop model performance standards suitable for application to employment and training programs carried out under this subsection and that satisfy the criteria specified in this subparagraph;

"(II) compare the standards developed under subclause (I) with the performance standards established under this subparagraph by the Secretary, and

Reports.

"(III) submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Secretary of Agriculture a report describing the results of the comparison required under subclause (II).".

(e) INCENTIVE PAYMENTS.—Section 16(h) (7 U.S.C. 2025(h)) is amended by adding at the end thereof the following new paragraph:

"(6) The Secretary shall develop, and transmit to the Committee on Agriculture of the House of Representatives and the Committee

on Agriculture, Nutrition, and Forestry of the Senate, a proposal for modifying the rate of Federal payments under this subsection so as to reflect the relative effectiveness of the various States in carrying out employment and training programs under section 6(d)(4).".

(f) HOUSEHOLDS.—Section 5(d)(5) (7 U.S.C. 2014(d)(5)) is amended by inserting after "child care expenses" the following: "(except for payments or reimbursements for such expenses made under an employment, education, or training program initiated under such title after the date of enactment of the Hunger Prevention Act of 1988)".

(g) REIMBURSABLE COSTS.—Section 16(h)(3) (7 U.S.C. 2025) is amended by inserting after "month" the following: "for costs of transportation and other actual costs (other than dependent care costs) and an amount representing $160 per month per dependent". Transportation.

TITLE V—DEMONSTRATION PROJECTS

SEC. 501. FARMERS' MARKET COUPONS DEMONSTRATION PROJECT. Grants.

(a) PURPOSE.—The purpose of this section is to authorize the establishment of a grant program to encourage State demonstration projects designed to— 42 USC 1786 note.

(1) provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods (such as fruits and vegetables), from farmers' markets; and

(2) expand the awareness and use of farmers' markets and increase sales at such markets.

(b) GENERAL AUTHORITY.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by adding at the end thereof the following new subsection:

"(m)(1) Subject to the availability of funds appropriated for purposes of this subsection, the Secretary shall award a 3-year grant to up to 10 States that submit applications that are approved for the establishment of demonstration projects designed to provide recipients of assistance under subsection (c) with coupons that may be exchanged for foods at farmers' markets. 102 STAT. 1669

"(2) A grant provided to any State under this subsection shall be provided to the chief executive officer of the State, who shall—

"(A) designate the appropriate State agency or agencies to administer the program in conjunction with the appropriate nonprofit organizations; and

"(B) assure coordination of the program among the appropriate agencies and organizations.

"(3) The Secretary shall not make a grant to any State under this subsection unless such State agrees to provide State funds for the demonstration project in an amount that is equal to not less than 30 percent of the total cost of the demonstration project which may be satisfied from State contributions that are made for similar projects.

"(4)(A) The Secretary shall establish a formula for determining the amount of the grant to be awarded under this subsection to each State for which an application is approved under paragraph (6), according to the number of recipients proposed to participate as specified in the application of the State.

"(B) If the sums appropriated for any fiscal year pursuant to the authorization contained in paragraph (10) for grants under this subsection are not sufficient to pay to each State for which an application is approved under paragraph (6) the amount which the Secretary determines each such State is entitled to under this subsection, each State's grant shall be ratably reduced.

"(5) Each State that receives a grant under this subsection shall ensure that the demonstration project for which the grant is received complies with the following requirements:

"(A) Persons who are eligible to receive Federal benefits under the project shall only be persons who are receiving assistance under subsection (c).

"(B) Construction or operation of a farmers' market may not be carried out using funds—

"(i) provided under the grant; or

"(ii) required to be provided by the State under paragraph (3).

"(C) The value of the Federal share of the benefit received by any recipient under the project may not be—

"(i) less than $10 per year; or

"(ii) more than $20 per year.

"(D) The coupon issuance process under the project shall be designed to ensure that coupons target areas with—

"(i) the highest concentration of eligible persons;

"(ii) the greatest access to farmers' markets; and

"(iii) certain characteristics, in addition to those described in clauses (i) and (ii), that are determined to be relevant by the Secretary that maximize the availability of benefits to eligible persons.

"(E) The coupon redemption process under the project shall be designed to ensure that coupons may be—

"(i) redeemed only by producers authorized by the State to participate in the project; and

"(ii) redeemed only to purchase unprepared food for human consumption.

"(F)(i) Except as provided in clauses (ii) and (iii), the State may not use for administration of such project for any fiscal year more than 10 percent of the total amount of project funds.

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"(ii) On the showing by the State of substantial need, the Secretary may permit a State to use up to an additional two percent of the total project funds for administration of such project for any fiscal year.

"(iii) The provisions of clauses (i) and (ii) with respect to the use of project funds for the administration of the project shall not apply to any funds that a State may contribute in excess of the funds used by the State to meet the requirements under subparagraph (B).

Taxes.

"(G) The State shall ensure that no State or local taxes are collected within the State on purchases of food with coupons distributed under the project.

"(6)(A) A State that desires to receive a grant under this subsection shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

"(B)(i) Each application submitted under this paragraph shall contain—

"(I) the estimated cost of the program and the estimated number of individuals to be served by such program;

"(II) a description of the State plan for complying with the requirements established in paragraph (5); and

"(III) criteria developed by the State with respect to authorization of producers to participate in the program.

"(ii) The criteria developed by the State as required by clause (i)(III) shall require any authorized producer to sell fresh nutritious unprepared foods (such as fruits and vegetables) to recipients, in exchange for coupons distributed under the project.

"(C) The Secretary shall establish objective criteria for the approval of applications submitted under this paragraph.

"(D) In approving applications submitted under this paragraph, the Secretary shall—

"(i) favorably consider a State's prior experiences with programs in existence as of the date of enactment of the Hunger Prevention Act of 1988;

"(ii) favorably consider a State's operation of a similar project with State or local funds that can present data concerning the value of such project, and such data can be of assistance to other States interested in developing such farmers' market coupons projects;

"(iii) award a grant to at least one applicant that proposes to operate the program on a Statewide basis;

"(iv) give preference to applications from States that propose projects that are determined by the Secretary to—

"(I) have possible national significance; or

"(II) show unusual promise in promoting similar projects;

"(v) give preference to applications that show promise of continued operation of the project for which the grant is requested after the grant expires;

"(vi) require that if a State receives a grant under this section and that State is operating a similar project with State or local funds, that State shall not reduce in any fiscal year the amount of State and local funds available to the project in the preceding fiscal year after receiving funds for the project under this subsection; and

"(vii) give preference to applications for projects that would serve areas in the State that have—

"(I) the highest concentration of eligible persons; 102 STAT. 1671

"(II) the greatest access to farmers' markets;

"(III) broad geographical area;

"(IV) the greatest number of participants in the broadest geographical area within the State; and

"(V) any other characteristics, as determined appropriate by the Secretary, that maximize the availability of benefits to eligible persons.

"(7)(A) The value of the benefit received by any recipient under any project for which a grant is received under this subsection may not affect the eligibility or benefit levels for assistance under any other State or Federal program.

"(B) Any projects for which a grant is received under this subsection shall be supplementary to the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and to any other Federal or State program under which foods are distributed to needy families in lieu of food stamps.

"(8) Each State that receives a grant under this subsection shall submit a report to the Secretary for each year of the grant period. Each such report shall include— Reports.

"(A) the number of recipients served under the project for which the grant is received;

"(B) the rate of redemption of coupons distributed under the project;

"(C) the types of foods purchased with the coupons;

"(D) the average amount distributed in coupons to each recipient;

"(E) any change in the amount of food purchased at farmers' markets after the establishment of the project;

"(F) any change in the number of farmers participating in farmers' markets after the establishment of the project;

"(G) a description of how coupons were distributed to and redeemed by recipients in the State project; and

"(H) any other information determined to be necessary by the Secretary.

"(9)(A) The Secretary shall evaluate the projects for which grants are received under this subsection and submit to the Committee on Agriculture of the House of Representatives, the Committee on Education and Labor of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on such evaluations.

"(B) Such report shall be submitted before the end of the 2-year period beginning on the date that the last grant is awarded under this subsection. Reports.

"(10) There are authorized to be appropriated to carry out this subsection $2,000,000 for fiscal year 1989, $2,800,000 for fiscal year 1990, and $3,500,000 for fiscal year 1991. Appropriation authorization.

"(11) For purposes of this subsection:

"(A) The term 'recipient' means a person who is chosen by a State to receive benefits under a project.

"(B) The term 'State agency' has the meaning provided in subsection (b)(13), except that such term also includes the agriculture department of each State."

7 USC 612c note.

SEC. 502. FOOD BANK DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary of Agriculture may carry out
102 STAT. 1672 demonstration projects to provide and redistribute to needy individuals and families through community food banks and other charitable food banks—

(1) agricultural commodities or the products thereof made available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); and

(2) to the extent practicable, agricultural commodities or the products thereof made available under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c).

(b) FOOD TYPES.—The Secretary shall determine the quantities, varieties, and types of agricultural commodities and products thereof to be made available to community food banks under this section.

(c) REPORT.—Not later than July 1, 1990, the Secretary shall submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report describing any demonstration projects carried out under this section. The report shall include an analysis and evaluation of the distribution and redistribution of food under the demonstration projects and the feasibility of expanding the projects to other community food banks.

(d) TERMINATION.—The authority provided under this section shall terminate on September 30, 1990.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $400,000 for each of the fiscal years 1989 through 1990.

42 USC 1766 note.

SEC. 503. FAMILY OR GROUP DAY CARE HOME DEMONSTRATION PROJECT.

Effective date.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a demonstration project to begin 30 days after enactment of this Act, but in no event earlier than October 1, 1988, in one State regarding the Child Care Food Program authorized under section 17 of the National School Lunch Act (42 U.S.C. 1766) in which day care institutions and family or group day care sponsoring organizations shall receive a reimbursement (in addition to that received under subsections (d) and (f) of section 17 for providing one additional meal or supplement for children that are maintained in a day care institution or in a family or group day care home setting for eight or more hours per day.

(b) LOCATION.—The Secretary of Agriculture shall select one State in which to conduct the demonstration project established under subsection (a). The State shall have a large number of children served by family or group day care homes and shall have a large proportion of its Child Care Food Program meals served under such program in homes rather than in day care centers.

(c) PURPOSE OF DEMONSTRATION.—The demonstration project established under subsection (a) shall be structured in a manner that will enable the Secretary of Agriculture to determine—

(1) if the additional meal or supplement for children staying in day care homes longer than eight hours would increase participation in the Child Care Food Program by family and group day care homes;

(2) the extent to which meal service increases at such homes;
102 STAT. 1673 and

(3) the nutritional impact of the additional meal or supplement.

(d) REPORT.—Not later than August 1, 1989, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Senate Committee on Agriculture, Nutrition, and Forestry, a preliminary report that describes the results of the project conducted under this section. As expeditiously as possible after the conclusion of such project, the Secretary shall prepare and submit to such Committees a final report concerning the project.

(e) TERMINATION.—The demonstration project required by this section shall terminate not later than 12 months after the date on which the project was fully initiated.

SEC. 504. DEMONSTRATION PROJECTS FOR DEVELOPMENT AND USE OF INTELLIGENT COMPUTER BENEFIT CARDS TO PAY FOOD STAMP BENEFITS.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by adding at the end thereof the following new subsection:

"(f)(1) In order to encourage States to plan, design, develop, and implement a system for making food stamp benefits available through the use of intelligent benefit cards or other automated or electronic benefit delivery systems, the Secretary may conduct one or more pilot or experimental projects, subject to the restrictions imposed by subsection (b)(1) and section 7(g)(2), designed to test whether the use of such cards or systems can enhance the efficiency and effectiveness of program operations while ensuring that individuals receive correct benefit amounts on a timely basis. Intelligent benefit cards developed under such a demonstration project shall contain information, encoded on a computer chip embedded in a credit card medium, including the eligibility of the individual and the amount of benefits to which such individual is entitled. Any other automated or electronic benefit delivery system developed under such a demonstration project shall be able to use a plastic card to access such information from a data file.".

SEC. 505. STUDY OF THE EFFECTIVENESS OF THE FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) (as amended by section 504), is further amended by adding at the end thereof the following new subsection:

"(g) In order to assess the effectiveness of the employment and training programs established under section 6(d) in placing individuals into the work force and withdrawing such individuals from the food stamp program, the Secretary is authorized to carry out studies comparing the pre- and post-program labor force participation, wage rates, family income, level of receipt of food stamp and other transfer payments, and other relevant information, for samples of participants in such employment and training programs as compared to the appropriate control or comparison groups that did not participate in such programs. Such studies shall, to the maximum extent possible— Records.

"(1) collect such data for up to 3 years after the individual has completed the employment and training program; and

"(2) yield results that can be generalized to the national program as a whole.

The results of such studies and reports shall be considered in developing or updating the performance standards required under section 6."

102 STAT. 1674

TITLE VI—IMPROVING PAYMENT ACCURACY

SEC. 601. REVIEW OF STATE PROGRAM INVESTMENT WHEN SETTLING CLAIMS.

Section 13(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2022(a)(1)) is amended by inserting at the end thereof the following new

sentence: "In determining whether to settle, adjust, compromise, or waive a claim arising against a State agency pursuant to section 16(c), the Secretary shall review a State agency's plans for new dollar investment in activities to improve program administration in order to reduce payment error, and shall take the State agency's plans for new dollar investment in such activities into consideration as the Secretary considers appropriate.".

SEC. 602. INTEREST ON CLAIMS AGAINST STATE AGENCIES.

Section 13(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2022(a)(1)), as amended by section 601, is further amended by adding at the end thereof the following new sentences: "To the extent that a State agency does not pay a claim established under section 16(c)(1)(C), including an agreement to have all or part of the claim paid through a reduction in Federal administrative funding, within 30 days from the date on which the bill for collection (after a determination on any request for a waiver for good cause related to the claim has been made by the Secretary) is received by the State agency, the State agency shall be liable for interest on any unpaid portion of such claim accruing from the date on which the bill for collection was received by the State agency, unless the State agency appeals the claim under section 16(c)(7). If the State agency appeals such claim (in whole or in part), the interest on any unpaid portion of the claim shall accrue from the date of the decision on the administrative appeal, or from a date that is 2 years after the date the bill is received, whichever is earlier, until the date the unpaid portion of the payment is received. If the State agency pays such claim (in whole or in part, including an agreement to have all or part of the claim paid through a reduction in Federal administrative funding) and the claim is subsequently overturned through administrative or judicial appeal, any amounts paid by the State agency shall be promptly returned with interest, accruing from the date the payment is received until the date the payment is returned. Any interest assessed under this paragraph shall be computed at a rate determined by the Secretary based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during the period such interest accrues.".

Claims.

SEC. 603. ADMINISTRATIVE AND JUDICIAL REVIEW.

Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

Records.

(1) by inserting immediately after the fifth sentence the following new sentences: "Determinations regarding claims made pursuant to section 16(c) shall be made on the record after opportunity for an agency hearing in accordance with section 556 and 557 of title 5, United States Code, in which one or more administrative law judges appointed pursuant to section 3105 of such title shall preside over the taking of evidence. Such judges shall have authority to issue and enforce subpoenas in the manner prescribed in sections 13 (c) and (d) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499m (c) and (d)) and to appoint expert witnesses under the provisions of Rule 706 of the Federal Rules of Evidence. The Secretary may not limit the authority of such judges presiding over determinations regarding claims made pursuant to section 16(c). The Secretary shall provide a summary procedure for determinations regarding claims made pursuant to section 16(c) in amounts less than $50,000. Such summary procedure need not include an oral hearing. On a petition by the State agency or sua sponte, the Secretary may permit the full administrative review procedure to be used in lieu of such summary review procedure for a claim of less than $50,000. Subject to the right of judicial review hereinafter provided, a determination made by an administrative law judge regarding a claim made pursuant to section 16(c) shall be final and shall take effect thirty days after the date of the delivery or service of final notice of such determination.";

102 STAT. 1675

Effective date.

(2) by inserting before the period at the end of the eighth sentence (as it existed before the amendment made by paragraph (1)) ", except that judicial review of determinations regarding claims made pursuant to section 16(c) shall be a review on the administrative record"; and

(3) by adding at the end thereof the following new sentence: "Notwithstanding the administrative or judicial review procedures set forth in this subsection, determinations by the Secretary concerning whether a State agency had good cause for its failure to meet error rate tolerance levels established under section 16(c) are final.".

SEC. 604. PAYMENT ACCURACY IMPROVEMENT SYSTEM.

Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended—

(1) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The program authorized under this Act shall include a system that enhances payment accuracy by establishing fiscal incentives that require State agencies with high error rates to share in the cost of payment error and provide enhanced administrative funding to States with the lowest error rates. Under such system—

"(A) the Secretary shall adjust a State agency's federally funded share of administrative costs pursuant to subsection (a), other than the costs already shared in excess of 50 percent under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing such share of all such administrative costs by one percentage point to a maximum of 60 percent of all such administrative costs for each full one-tenth of a percentage point by which the payment error rate is less than 6 percent, except that only States whose rate of invalid decisions in denying eligibility is less than a nationwide percentage that the Secretary determines to be reasonable shall be entitled to the adjustment prescribed in this subsection;

102 STAT. 1676

"(B) the Secretary shall foster management improvements by the States pursuant to subsection (b) by requiring State agencies other than those receiving adjustments under subparagraph (A) to develop and implement corrective action plans to reduce payment errors; and

"(C) for any fiscal year in which a State agency's payment error rate exceeds the payment error tolerance level for payment error rates announced under paragraph (6), other than for good cause shown, the State agency shall pay to the Secretary an amount equal to its payment error rate less such tolerance level times the total value of allotments issued in such a fiscal year by such State agency. The amount of liability shall not be affected by corrective action under subparagraph (B).

"(2) As used in this section—

"(A) the term 'payment error rate' means the sum of the point estimates of an overpayment error rate and an underpayment error rate determined by the Secretary from data collected in a probability sample of participating households;

"(B) the term 'overpayment error rate' means the percentage of the value of all allotments issued in a fiscal year by a State agency that are either—

"(i) issued to households that fail to meet basic program eligibility requirements; or

"(ii) overissued to eligible households; and

"(C) the term 'underpayment error rate' means the ratio of the value of allotments underissued to recipient households to the total value of allotments issued in a fiscal year by a State agency.

"(3) The following errors may be measured for management purposes but shall not be included in the payment error rate:

"(A) Any errors resulting in the application of new regulations promulgated under this Act during the first 60 days (or 90

days at the discretion of the Secretary) from the required implementation date for such regulations.

"(B) Errors resulting from the use by a State agency of correctly processed information concerning households or individuals received from Federal agencies or from actions based on policy information approved or disseminated, in writing, by the Secretary or the Secretary's designee.

"(4) The Secretary may require a State agency to report any factors that the Secretary considers necessary to determine a State agency's payment error rate, enhanced administrative funding, or claim for payment error, under this subsection. If a State agency fails to meet the reporting requirements established by the Secretary, the Secretary shall base the determination on all pertinent information available to the Secretary.

Records. "(5) To facilitate the implementation of this subsection each State agency shall submit to the Secretary expeditiously data regarding its operations in each fiscal year sufficient for the Secretary to establish the payment error rate for the State agency for such fiscal year and determine the amount of either incentive payments under paragraph (1)(A) or claims under paragraph (1)(C). The Secretary shall make a determination for a fiscal year, and notify the State agency of such determination, within nine months following the end of each fiscal year. The Secretary shall initiate efforts to collect the amount owed by the State agency as a claim established under paragraph (1)(C) for a fiscal year, subject to the conclusion of any formal or informal appeal procedure and administrative or judicial review under section 14 (as provided for in paragraph (7)), before the end of the fiscal year following such fiscal year.

Claims.
102 STAT. 1677

Claims. "(6) At the time the Secretary makes the notification to State agencies of their error rates and incentive payments or claims pursuant to paragraphs (1)(A) and (1)(C), the Secretary shall also announce a national performance measure that shall be the sum of the products of each State agency's error rate as developed for the notifications under paragraph (5) times that State agency's proportion of the total value of national allotments issued for the fiscal year using the most recent issuance data available at the time of the notifications issued pursuant to paragraph (5). Where a State fails to meet reporting requirements pursuant to paragraph (4), the Secretary may use another measure of a State's error developed pursuant to paragraph (5), to develop the national performance measure. The announced national performance measure shall be used to establish a payment-error tolerance level. Such tolerance level for any fiscal year will be one percentage point added to the lowest national performance measure ever announced up to and including such fiscal year under this section. The payment-error tolerance level shall be used in determining the State share of the cost of payment error under paragraph (1)(C) for the fiscal year whose error rates are being announced under paragraph (5).

"(7) If the Secretary asserts a financial claim against a State agency under paragraph (1)(C), the State may seek administrative and judicial review of the action pursuant to section 14."; and

(2) by striking out subsection (d) and inserting in lieu thereof the following new subsection:

Reports. "(d) The Secretary shall undertake the following studies of the payment error improvement system established under subsection (c):

"(1) An assessment of the feasibility of measuring payment errors due to improper denials and terminations of benefits or otherwise developing performance standards with financial consequences for improper denials and terminations, including incorporation in subsection (c). The Secretary shall report the results of such study and the recommendations of the Secretary to the Congress by July 1, 1990.

"(2) An evaluation of the effectiveness of the system of program improvement initiated under this section that shall be reported to the Congress along with the Secretary's recommendations no later than 3 years from the date of enactment of this section.".

TITLE VII—IMPLEMENTATION

SEC. 701. EFFECTIVE DATES. 7 USC 2012 note.

(a) IN GENERAL.—Except as otherwise provided for in section 503 and in subsection (b) of this section, this Act and the amendments made by this Act shall become effective and be implemented on October 1, 1988.

(b) SPECIAL RULES.—

(1) The amendments made by sections 101, 103, 301, 321(c), 343, and 401 shall become effective and be implemented on the date of enactment of this Act.

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(2) The amendments made by section 402 shall become effective and be implemented on January 1, 1989.

(3)(A) The amendments made by section 203(a) shall become effective on January 1, 1989, and the States shall implement such section by January 1, 1990.

(B) The amendments made by section 203(b) shall become effective on January 1, 1989, except with regards to those States not implementing section 203(a).

(4) The amendments made by sections 204, 210, 211, subsections (a)(1), (c), and (e) of section 404, and sections 310 through 352 shall become effective and implemented on July 1, 1989.

(5) The amendments made by title VI shall be effective as follows:

(A) Except as provided in subparagraph (D), the provisions of section 16(c) of the Food Stamp Act of 1977, as amended by section 604, shall become effective on October 1, 1985, with respect to claims under section 16(c) for quality control review periods after such date, except that—

(i) the provisions of section 16(c)(1)(A), as amended, shall become effective on October 1, 1988, with respect to payment error rates for quality control review periods after such date; and

(ii) the provisions of section 16(c)(3), as amended, shall become effective on October 1, 1988, with respect to payment error rates for quality control review periods after such date.

(B) The amendments made by sections 601 and 602 shall become effective on October 1, 1985, with respect to claims under section 16(c) for quality control review periods after such date.

(C) Except as provided in subparagraph (D), the amendments made to section 14 of the Food Stamp Act of 1977 by section 603 shall become effective on October 1, 1985, with respect to claims under section 16(c) for quality control review periods after such date.

(D)(i) The provisions of sections 13, 14, and 16 of the Food Stamp Act of 1977 that relate to claims against State agencies and that were in effect for any quality control review period or periods through fiscal year 1985 shall remain in effect for claims arising with respect to such period or periods.

(ii) The provisions of sections 14 and 16(c) of the Food Stamp Act of 1977 that relate to enhanced administrative funding for State agencies and that were in effect for any quality control review period or periods through fiscal year 1988 shall remain in effect for such funding with respect to such period or periods.

(c) SEQUESTRATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if a final order is issued for fiscal year 1989 under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(b)), the amount made available to carry out the food stamp program under section 18 of the Food Stamp Act of 1977 (7 U.S.C. 2027) shall be reduced by an amount equal to $110,000,000 multiplied by the amount of the percentage reduc-

102 STAT. 1679

tion for domestic programs required under such order. The reduction required by the preceding sentence shall be achieved by reducing the amount of the adjustment to the cost of the thrifty food plan for fiscal year 1989 under section 3(o)(9) of the Food Stamp Act of 1977 (as added by section 120 of this Act).

(2) EFFECTIVE DATES IF SEQUESTRATION OCCURS.—Notwithstanding subsections (a) and (b), if a final order is issued under section 252(b) of the Emergency Deficit Control Act of 1985 (2 U.S.C. 902(b)) for fiscal year 1989 to make reductions and sequestrations specified in the report required under section 251(a)(3)(A) of such Act, sections 111, 201, 204, 310, 311, 321, 322, 323, 341, 342, 350, 351, 352, 402, 403, 404, 502, 504, and 505 shall become effective and be implemented on October 1, 1989.

Approved September 19, 1988.

LEGISLATIVE HISTORY—S. 2560 (H.R. 4060):

HOUSE REPORTS: No. 100-828, Pt. 1, accompanying H.R. 4060 (Comm. on Agriculture).
SENATE REPORTS: No. 100-397 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Aug. 8, H.R. 4060 considered and passed House.
Aug. 11, S. 2560 considered and passed House, amended. Senate concurred in House amendment.

102 STAT. 2584

Public Law 100-518
100th Congress

An Act

Oct. 24, 1988
[H.R. 4345]

To amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States Grain Standards Act Amendments of 1988.
7 USC 71 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Grain Standards Act Amendments of 1988".

SEC. 2. GRAIN STANDARDS ACT.

Effective for the period October 1, 1988, through September 30, 1993, inclusive, the United States Grain Standards Act is amended—

(1) by amending subsection (j) of section 7 (7 U.S.C. 79(j)) to read as follows:

"(j)(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Service incident to the performance of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and supervisory costs related to such official inspection of grain. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.

Canada.

"(2) Each designated official agency and each State agency to which authority has been delegated under subsection (e) of this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the estimated costs incurred by the Service relating to supervision of official agency personnel and supervision by Service personnel of its field office personnel, except costs incurred under paragraph (3) of subsection (g) of this section and sections 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in paragraph (1) of this subsection. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary and adjusted to the nearest one-eighth of 1 per centum. 102 STAT. 2585

"(3) Any sums collected or received by the Administrator under this Act and deposited to the fund created in paragraph (1) of this subsection and any late payment penalties collected by the Administrator and credited to such fund may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. The interest earned on such sums and any late payment penalties collected by the Administrator shall be credited to the fund and shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act."; Securities.

(2) by amending subsection (l) of section 7A (7 U.S.C. 79(a)(1)) to read as follows: 7 USC 79a.

"(l)(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated costs to the Service incident to the performance of the functions provided for under this section except as otherwise provided in paragraph (2) of this subsection. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Service incident to performance of its functions related to weighing, including administrative and supervisory costs directly related thereto. Such fees shall be deposited into the fund created in section 7(j) of this Act.

"(2) Each agency to which authority has been delegated under this section and each agency or other person which has been designated to perform functions related to weighing under this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the costs incurred by the Service relating to supervision of the agency personnel and supervision by Service personnel of its field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under sections 7(g)(3), 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in section 7(j) of this Act. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as

determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.";

(3) by adding before section 8 (7 U.S.C. 84) the following new section:

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"LIMITATION ON ADMINISTRATIVE AND SUPERVISORY COSTS

7 USC 79d.

"SEC. 7D. The total administrative and supervisory costs which may be incurred under this Act for inspection and weighing (excluding standardization, compliance, and foreign monitoring activities) for each of the fiscal years 1989 through 1993 shall not exceed 40 per centum of the total costs for such activities carried out by the Service for such year.";

(4) by amending section 19 (7 U.S.C. 87h) to read as follows:

"APPROPRIATIONS

"SEC. 19. There are hereby authorized to be appropriated such sums as are necessary for standardization and compliance activities, monitoring in foreign ports grain officially inspected and weighed under this Act, and any other expenses necessary to carry out the provisions of this Act for each of the fiscal years during the period beginning October 1, 1988, and ending September 30, 1993, to the extent that financing is not obtained from fees and sales of samples as provided for in sections 7, 7A, and 17A of this Act."; and

(5) by adding at the end thereof the following new section:

"ADVISORY COMMITTEE

7 USC 87j.

"SEC. 21. (a)(1) Not later than ninety days after the date of enactment of this section, the Secretary shall establish an advisory committee to provide advice to the Administrator with respect to implementation of this Act consistent with the declarations of policy in section 2 of this Act. The advisory committee shall consist of fifteen members, appointed by the Secretary, who represent the interests of all segments of the grain producing, processing, storing, merchandising, consuming, and exporting industries, including grain inspection and weighing agencies and scientists with expertise in research related to the policies established in section 2 of this Act. Members of the advisory committee shall be appointed to three-year terms, except that of the initial fifteen members of the advisory committee first appointed following the enactment of this section, five shall be appointed for terms of one year and five shall be appointed for terms of two years. No member of the advisory committee may serve successive terms.

"(2) To ensure a smooth transition, the advisory committee established under section 20 (as in effect prior to October 1, 1988) shall continue in existence until all members of the advisory committee established under this section are appointed; and the Secretary may appoint members of the advisory committee established under section 20 to serve on the advisory committee established under this section, without regard to the time of service of such members on the advisory committee established under section 20.

"(b) The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2).

"(c) The Administrator shall provide the advisory committee with necessary clerical assistance and staff personnel.

"(d) Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this

102 STAT. 2587

Act, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code.".

SEC. 3. PILOT PROJECT ON CLEAN GRAIN PREMIUMS. 7 USC 1421 note.

(a) STUDY OF PREMIUMS AND DISCOUNTS.—

(1) AUTHORITY.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall conduct a study of the schedule of premiums and discounts applied to loans made in accordance with the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) in order to determine how premiums and discounts can be used to encourage the production, marketing, and exporting of high quality, clean grain. Marketing. Exports.

(2) REPORT BY SECRETARY.—Not later than May 1, 1989, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the results of the study conducted under paragraph (1).

(3) RECOMMENDATIONS.—The Secretary shall include recommendations with respect to a schedule of premiums and discounts in the report prepared under paragraph (2).

(b) PILOT PROJECT.—

(1) ESTABLISHMENT BY SECRETARY.—The Secretary shall establish a pilot project for the 1989 crops of wheat, soybeans, and feed grains to test the effectiveness of the recommendations contained in the report prepared under subsection (a) in encouraging the production, marketing, and exporting of high quality, clean grain. Marketing. Exports.

(2) SIX MULTI-COUNTY AREAS.—The pilot project established under paragraph (1) shall be conducted in no less than six multi-county areas, of which—

(A) two shall be areas that are predominantly wheat-producing areas;

(B) two shall be areas that are predominantly corn-producing areas; and

(C) two shall be areas that are predominantly soybean-producing areas.

(3) CONSULTATION.—The Secretary, prior to the implementation of the pilot project, shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) REVIEW OF PILOT PROJECT.—Not later than one hundred and eighty days after the end of the 1989 marketing year for feed grains, the Secretary shall conduct a review of the pilot project established under subsection (b) and prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the result of the project. The report shall include recommendations for further encouraging the production, marketing, and exporting of high quality, clean grain. Reports.

SEC. 4. COTTON STANDARDS.

Subsection (a) of section 5 of the United States Cotton Standards Act (7 U.S.C. 55(a)) is amended—

(1) by striking out the second sentence; and

(2) by adding at the end thereof the following new sentences: "Any fees or charges, late payment penalties, or proceeds from the sales of samples collected under this subsection, and any interest earned through the investment of such funds shall be credited to the current appropriation account that incurs the costs of the services provided under this Act, and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing services and standards under this Act and the United States Cotton Futures Act (7 U.S.C. 15b). Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.". 102 STAT. 2588 Securities.

SEC. 5. STUDY OF EFFECTS OF INCLUDING DOCKAGE WITH FOREIGN MATERIAL AS A GRADING FACTOR FOR WHEAT.

Not later than June 1, 1989, the Secretary of Agriculture, through the Federal Grain Inspection Service, shall—

(1) conduct a study of the effects of including dockage with foreign material as a grading factor for wheat; and

Reports.

(2) submit a report on the results of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Approved October 24, 1988.

LEGISLATIVE HISTORY—H.R. 4345 (S. 2337):

HOUSE REPORTS: No. 100-644 (Comm. on Agriculture).
SENATE REPORTS: No. 100-455 accompanying S. 2337 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 23, considered and passed House.
Sept. 28, considered and passed Senate, amended, in lieu of S. 2337.
Oct. 3, 4, House concurred in Senate amendment with an amendment.
Oct. 7, Senate concurred in House amendment.

An Act

Oct. 25, 1988
[S. 659]

To amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988.
7 USC 136 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. References to the Federal Insecticide, Fungicide, and Rodenticide Act.

TITLE I—REGISTRATION

Sec. 101. Definition of outstanding data requirement.
Sec. 102. Reregistration of registered pesticides.
Sec. 103. Expedited registration of similar applications.

TITLE II—REVIEW AND CANCELLATION

Sec. 201. Administrative changes.

TITLE III—RECORDS AND INSPECTIONS

Sec. 301. Records.
Sec. 302. Inspections.

TITLE IV—DISPOSAL AND TRANSPORTATION

Sec. 401. Storage, disposal, transportation, and recall.
Sec. 402. Containers, rinsates, and other materials.
Sec. 403. Pesticide containers.
Sec. 404. Notice for stored pesticides with canceled or suspended registrations.

TITLE V—INDEMNITIES

Sec. 501. Indemnities.

TITLE VI—GENERAL

Sec. 601. Definitions.
Sec. 602. Scientific Advisory Panel.
Sec. 603. Unlawful acts.
Sec. 604. Penalties.
Sec. 605. Congressional review.

TITLE VII—AUTHORIZATION FOR APPROPRIATIONS

Sec. 701. Authorization for appropriations.

TITLE VIII—TECHNICAL AMENDMENTS

Sec. 801. Technical amendments.
Sec. 802. Table of contents amendment.

TITLE IX--EFFECTIVE DATE

Sec. 901. Effective date.

SEC. 2. REFERENCES TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

TITLE I—REGISTRATION

SEC. 101. DEFINITION OF OUTSTANDING DATA REQUIREMENT.

Section 2 (7 U.S.C. 136) is amended by adding at the end thereof the following new subsection:

"(ff) OUTSTANDING DATA REQUIREMENT.—

"(1) IN GENERAL.—The term 'outstanding data requirement' means a requirement for any study, information, or data that is necessary to make a determination under section 3(c)(5) and which study, information, or data—

"(A) has not been submitted to the Administrator; or

"(B) if submitted to the Administrator, the Administrator has determined must be resubmitted because it is not valid, complete, or adequate to make a determination under section 3(c)(5) and the regulations and guidelines issued under such section.

"(2) FACTORS.—In making a determination under paragraph (1)(B) respecting a study, the Administrator shall examine, at a minimum, relevant protocols, documentation of the conduct and analysis of the study, and the results of the study to determine whether the study and the results of the study fulfill the data requirement for which the study was submitted to the Administrator.".

SEC. 102. REREGISTRATION OF REGISTERED PESTICIDES.

(a) AMENDMENT.—The Act is amended by inserting after section 3 (7 U.S.C. 136a) the following new section:

"SEC. 3A. REREGISTRATION OF REGISTERED PESTICIDES. 7 USC 136a-1.

"(a) GENERAL RULE.—The Administrator shall reregister, in accordance with this section, each registered pesticide containing any active ingredient contained in any pesticide first registered before November 1, 1984, except for any pesticide as to which the Administrator has determined, after November 1, 1984, and before the effective date of this section, that—

"(1) there are no outstanding data requirements; and

"(2) the requirements of section 3(c)(5) have been satisfied.

"(b) REREGISTRATION PHASES.—Reregistrations of pesticides under this section shall be carried out in the following phases:

"(1) The first phase shall include the listing under subsection (c) of the active ingredients of the pesticides that will be reregistered.

"(2) The second phase shall include the submission to the Administrator under subsection (d) of notices by registrants respecting their intention to seek reregistration, identification by registrants of missing and inadequate data for such pesticides, and commitments by registrants to replace such missing or inadequate data within the applicable time period.

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"(3) The third phase shall include submission to the Administrator by registrants of the information required under subsection (e).

"(4) The fourth phase shall include an independent, initial review by the Administrator under subsection (f) of submissions under phases two and three, identification of outstanding data requirements, and the issuance, as necessary, of requests for additional data.

"(5) The fifth phase shall include the review by the Administrator under subsection (g) of data submitted for reregistration and appropriate regulatory action by the Administrator.

"(c) PHASE ONE.—

Agriculture and agricultural commodities.

"(1) PRIORITY FOR REREGISTRATION.—For purposes of the reregistration of the pesticides described in subsection (a), the Administrator shall list the active ingredients of pesticides and shall give priority to, among others, active ingredients (other than active ingredients for which registration standards have been issued before the effective date of this section) that—

"(A) are in use on or in food or feed and may result in postharvest residues;

Water. Fish and fishing.

"(B) may result in residues of potential toxicological concern in potable ground water, edible fish, or shellfish;

"(C) have been determined by the Administrator before the effective date of this section to have significant outstanding data requirements; or

"(D) are used on crops, including in greenhouses and nurseries, where worker exposure is most likely to occur.

"(2) REREGISTRATION LISTS.—For purposes of reregistration under this section, the Administrator shall by order—

"(A) not later than 70 days after the effective date of this section, list pesticide active ingredients for which registration standards have been issued before such effective date;

"(B) not later than 4 months after such effective date, list the first 150 pesticide active ingredients, as determined under paragraph (1);

"(C) not later than 7 months after such effective date, list the second 150 pesticide active ingredients, as determined under paragraph (1); and

"(D) not later than 10 months after such effective date, list the remainder of the pesticide active ingredients, as determined under paragraph (1).

Each list shall be published in the Federal Register.

Federal Register, publication.

"(3) JUDICIAL REVIEW.—The content of a list issued by the Administrator under paragraph (2) shall not be subject to judicial review.

Mail.

"(4) NOTICE TO REGISTRANTS.—On the publication of a list of pesticide active ingredients under paragraph (2), the Administrator shall send by certified mail to the registrants of the pesticides containing such active ingredients a notice of the time by which the registrants are to notify the Administrator under subsection (d) whether the registrants intend to seek or not to seek reregistration of such pesticides.

"(d) PHASE TWO.—

"(1) IN GENERAL.—The registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) shall submit to the Administrator, within the time period prescribed by paragraph (4), the notice described in paragraph (2) and any information, commitment, or offer described in paragraph (3).

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"(2) NOTICE OF INTENT TO SEEK OR NOT TO SEEK REREGISTRATION.—

"(A) The registrant of a pesticide containing an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) shall notify the Administrator by certified mail whether the registrant intends to seek or does not intend to seek reregistration of the pesticide. Mail.

"(B) If a registrant submits a notice under subparagraph (A) of an intention not to seek reregistration of a pesticide, the Administrator shall publish a notice in the Federal Register stating that such a notice has been submitted. Federal Register, publication.

"(3) MISSING OR INADEQUATE DATA.—Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) and for which the registrant submitted a notice under paragraph (2) of an intention to seek reregistration of such pesticide shall submit to the Administrator—

"(A) in accordance with regulations issued by the Administrator under section 3, an identification of—

"(i) all data that are required by regulation to support the registration of the pesticide with respect to such active ingredient;

"(ii) data that were submitted by the registrant previously in support of the registration of the pesticide that are inadequate to meet such regulations; and

"(iii) data identified under clause (i) that have not been submitted to the Administrator; and

"(B) either—

"(i) a commitment to replace the data identified under subparagraph (A)(ii) and submit the data identified under subparagraph (A)(iii) within the applicable time period prescribed by paragraph (4)(B); or

"(ii) an offer to share in the cost to be incurred by a person who has made a commitment under clause (i) to replace or submit the data and an offer to submit to arbitration as described by section 3(c)(2)(B) with regard to such cost sharing.

For purposes of a submission by a registrant under subparagraph (A)(ii), data are inadequate if the data are derived from a study with respect to which the registrant is unable to make the certification prescribed by subsection (e)(1)(G) that the registrant possesses or has access to the raw data used in or generated by such study. For purposes of a submission by a registrant under such subparagraph, data shall be considered to be inadequate if the data are derived from a study submitted before January 1, 1970, unless it is demonstrated to the satisfaction of the Administrator that such data should be considered to support the registration of the pesticide that is to be reregistered.

"(4) TIME PERIODS.—

"(A) A submission under paragraph (2) or (3) shall be made—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B), not later than 3 months after the date of publication of the listing of such active ingredient; 102 STAT. 2658

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C), not later than 3 months after the date of publication of the listing of such active ingredient; and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D), not later than 3 months after the date of publication of the listing of such active ingredient.

On application, the Administrator may extend a time period prescribed by this subparagraph if the Adminis-

trator determines that factors beyond the control of the registrant prevent the registrant from complying with such period.

"(B) A registrant shall submit data in accordance with a commitment entered into under paragraph (3)(B) within a reasonable period of time, as determined by the Administrator, but not more than 48 months after the date the registrant submitted the commitment. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(5) CANCELLATION AND REMOVAL.—

Federal Register, publication.

"(A) If the registrant of a pesticide does not submit a notice under paragraph (2) or (3) within the time prescribed by paragraph (4)(A), the Administrator shall issue a notice of intent to cancel the registration of such registrant for such pesticide and shall publish the notice in the Federal Register and allow 60 days for the submission of comments on the notice. On expiration of such 60 days, the Administrator, by order and without a hearing, may cancel the registration or take such other action, including extension of applicable time periods, as may be necessary to enable reregistration of such pesticide by another person.

"(B)(i) If—

"(I) no registrant of a pesticide containing an active ingredient listed under subsection (c)(2) notifies the Administrator under paragraph (2) that the registrant intends to seek reregistration of any pesticide containing that active ingredient;

"(II) no such registrant complies with paragraph (3)(A); or

"(III) no such registrant makes a commitment under paragraph (3)(B) to replace or submit all data described in clauses (ii) and (iii) of paragraph (3)(A);

Federal Register, publication.

the Administrator shall publish in the Federal Register a notice of intent to remove the active ingredient from the list established under subsection (c)(2) and a notice of intent to cancel the registrations of all pesticides containing such active ingredient and shall provide 60 days for comment on such notice.

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"(ii) After the 60-day period has expired, the Administrator, by order, may cancel any such registration without hearing, except that the Administrator shall not cancel a registration under this subparagraph if—

"(I) during the comment period a person acquires the rights of the registrant in that registration;

"(II) during the comment period that person furnishes a notice of intent to reregister the pesticide in accordance with paragraph (2); and

"(III) not later than 120 days after the publication of the notice under this subparagraph, that person has complied with paragraph (3) and the fee prescribed by subsection (i)(1) has been paid.

"(6) SUSPENSIONS AND PENALTIES.—The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 3(c)(2)(B)(iv) if the Administrator determines that (A) progress is insufficient to ensure the submission of the data required for such pesticide under a commitment made under paragraph (3)(B) within the time period prescribed by paragraph (4)(B) or (B) the registrant has not submitted such data to the Administrator within such time period.

"(e) PHASE THREE.—

"(1) INFORMATION ABOUT STUDIES.—Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) who has submitted a notice under subsection (d)(2) of an intent to seek the reregistration of such pesticide shall submit, in accordance with the guidelines issued under paragraph (4), to the Administrator—

"(A) a summary of each study concerning the active ingredient previously submitted by the registrant in support of the registration of a pesticide containing such active ingredient and considered by the registrant to be adequate to meet the requirements of section 3 and the regulations issued under such section;

"(B) a summary of each study concerning the active ingredient previously submitted by the registrant in support of the registration of a pesticide containing such active ingredient that may not comply with the requirements of section 3 and the regulations issued under such section but which the registrant asserts should be deemed to comply with such requirements and regulations;

"(C) a reformat of the data from each study summarized under subparagraph (A) or (B) by the registrant concerning chronic dosing, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, teratogenicity, or residue chemistry of the active ingredient that were submitted to the Administrator before January 1, 1982;

"(D) where data described in subparagraph (C) are not required for the active ingredient by regulations issued under section 3, a reformat of acute and subchronic dosing data submitted by the registrant to the Administrator before January 1, 1982, that the registrant considers to be adequate to meet the requirements of section 3 and the regulations issued under such section;

"(E) an identification of data that are required to be submitted to the Administrator under section 6(a)(2) indicating an adverse effect of the pesticide;

"(F) an identification of any other information available that in the view of the registrant supports the registration;

"(G) a certification that the registrant or the Administrator possesses or has access to the raw data used in or generated by the studies that the registrant summarized under subparagraph (A) or (B);

"(H) either—

"(i) a commitment to submit data to fill each outstanding data requirement identified by the registrant; or

"(ii) an offer to share in the cost of developing such data to be incurred by a person who has made a commitment under clause (i) to submit such data, and an offer to submit to arbitration as described by section 3(c)(2)(B) with regard to such cost sharing; and

"(I) evidence of compliance with section 3(c)(1)(D)(ii) and regulations issued thereunder with regard to previously submitted data as if the registrant were now seeking the original registration of the pesticide.

A registrant who submits a certification under subparagraph (G) that is false shall be considered to have violated this Act and shall be subject to the penalties prescribed by section 14.

"(2) TIME PERIODS.—

"(A) The information required by paragraph (1) shall be submitted to the Administrator—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B), not later than 12 months after the date of publication of the listing of such active ingredient;

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C), not later

than 12 months after the date of publication of the listing of such active ingredient; and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D), not later than 12 months after the date of publication of the listing of such active ingredient.

"(B) A registrant shall submit data in accordance with a commitment entered into under paragraph (1)(H) within a reasonable period of time, as determined by the Administrator, but not more than 48 months after the date the registrant submitted the commitment under such paragraph. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(3) CANCELLATION.—

"(A) If the registrant of a pesticide fails to submit the information required by paragraph (1) within the time prescribed by paragraph (2), the Administrator, by order and without hearing, shall cancel the registration of such pesticide.

"(B)(i) If the registrant of a pesticide submits the information required by paragraph (1) within the time prescribed by paragraph (2) and such information does not conform to the guidelines for submissions established by the Administrator, the Administrator shall determine whether the registrant made a good faith attempt to conform its submission to such guidelines.

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"(ii) If the Administrator determines that the registrant made a good faith attempt to conform its submission to such guidelines, the Administrator shall provide the registrant a reasonable period of time to make any necessary changes or corrections.

"(iii)(I) If the Administrator determines that the registrant did not make a good faith attempt to conform its submission to such guidelines, the Administrator may issue a notice of intent to cancel the registration. Such a notice shall be sent to the registrant by certified mail.

Mail.

"(II) The registration shall be canceled without a hearing or further notice at the end of 30 days after receipt by the registrant of the notice unless during that time a request for a hearing is made by the registrant.

"(III) If a hearing is requested, a hearing shall be conducted under section 6(d), except that the only matter for resolution at the hearing shall be whether the registrant made a good faith attempt to conform its submission to such guidelines. The hearing shall be held and a determination made within 75 days after receipt of a request for hearing.

"(4) GUIDELINES.—

"(A) Not later than 1 year after the effective date of this section, the Administrator, by order, shall issue guidelines to be followed by registrants in—

"(i) summarizing studies;

"(ii) reformatting studies;

"(iii) identifying adverse information; and

"(iv) identifying studies that have been submitted previously that may not meet the requirements of section 3 or regulations issued under such section,

under paragraph (1).

"(B) Guidelines issued under subparagraph (A) shall not be subject to judicial review.

"(5) MONITORING.—The Administrator shall monitor the progress of registrants in acquiring and submitting the data required under paragraph (1).

"(f) PHASE FOUR.—

"(1) INDEPENDENT REVIEW AND IDENTIFICATION OF OUTSTANDING DATA REQUIREMENTS.—

"(A) The Administrator shall review the submissions of all registrants of pesticides containing a particular active ingredient under subsections (d)(3) and (e)(1) to determine if such submissions identified all the data that are missing or inadequate for such active ingredient. To assist the review of the Administrator under this subparagraph, the Administrator may require a registrant seeking reregistration to submit complete copies of studies summarized under subsection (e)(1).

"(B) The Administrator shall independently identify and publish in the Federal Register the outstanding data requirements for each active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) and that is contained in a pesticide to be reregistered under this section. The Administrator, at the same time, shall issue a notice under section 3(c)(2)(B) for the submission of the additional data that are required to meet such requirements.

Federal Register, publication.

"(2) TIME PERIODS.—

"(A) The Administrator shall take the action required by paragraph (1)—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B), not later than 18 months after the date of the listing of such active ingredient;

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C), not later than 24 months after the date of the listing of such active ingredient; and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D), not later than 33 months after the date of the listing of such active ingredient.

"(B) If the Administrator issues a notice to a registrant under paragraph (1)(B) for the submission of additional data, the registrant shall submit such data within a reasonable period of time, as determined by the Administrator, but not to exceed 48 months after the issuance of such notice. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(3) SUSPENSIONS AND PENALTIES.—The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 3(c)(2)(B)(iv) if the Administrator determines that (A) tests necessary to fill an outstanding data requirement for such pesticide have not been initiated within 1 year after the issuance of a notice under paragraph (1)(B), or (B) progress is insufficient to ensure submission of the data referred to in clause (A) within the time period prescribed by paragraph (2)(B) or the required data have not been submitted to the Administrator within such time period.

"(g) PHASE FIVE.—

"(1) DATA REVIEW.—The Administrator shall conduct a thorough examination of all data submitted under this section concerning an active ingredient listed under subsection (c)(2) and of all other available data found by the Administrator to be relevant.

"(2) REREGISTRATION AND OTHER ACTIONS.—

"(A) Within 1 year after the submission of all data concerning an active ingredient of a pesticide under subsec-

tion (f), the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration. For extraordinary circumstances, the Administrator may extend such period for not more than 1 additional year.

"(B) Before reregistering a pesticide, the Administrator
102 STAT. 2663 shall obtain any needed product-specific data regarding the pesticide by use of section 3(c)(2)(B) and shall review such data within 90 days after its submission. The Administrator shall require that data under this subparagraph be submitted to the Administrator not later than 8 months after a determination of eligibility under subparagraph (A) has been made for each active ingredient of the pesticide, unless the Administrator determines that a longer period is required for the generation of the data.

"(C) After conducting the review required by paragraph (1) for each active ingredient of a pesticide and the review required by subparagraph (B) of this paragraph, the Administrator shall determine whether to reregister a pesticide by determining whether such pesticide meets the requirements of section 3(c)(5). If the Administrator determines that a pesticide is eligible to be reregistered, the Administrator shall reregister such pesticide within 6 months after the submission of the data concerning such pesticide under subparagraph (B).

"(D) If after conducting a review under paragraph (1) or subparagraph (B) of this paragraph the Administrator determines that a pesticide should not be reregistered, the Administrator shall take appropriate regulatory action.

"(h) COMPENSATION OF DATA SUBMITTER.—If data that are submitted by a registrant under subsection (d), (e), (f), or (g) are used to support the application of another person under section 3, the registrant who submitted such data shall be entitled to compensation for the use of such data as prescribed by section 3(c)(1)(D). In determining the amount of such compensation, the fees paid by the registrant under this section shall be taken into account.

"(i) FEES.—

"(1) INITIAL FEE FOR FOOD OR FEED USE PESTICIDE ACTIVE INGREDIENTS.—The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $50,000 on submission of information under paragraphs (2) and (3) of subsection (d) for such ingredient.

"(2) FINAL FEE FOR FOOD OR FEED USE PESTICIDE ACTIVE INGREDIENTS.—

"(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $100,000—

"(i) on submission of information for such ingredient under subsection (e)(1) if data are reformatted under subsection (e)(1)(C); or

"(ii) on submission of data for such ingredient under subsection (e)(2)(B) if data are not reformatted under subsection (e)(1)(C).

"(B) The registrants of pesticides that contain an active ingredient that is listed under subsection (c)(2)(A) and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $150,000 at such time as the Administrator shall prescribe.

102 STAT. 2664 "(3) FEES FOR OTHER PESTICIDE ACTIVE INGREDIENTS.—

"(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D)

of subsection (c)(2) and that is not an active ingredient of any pesticide registered for a major food or feed use shall collectively pay fees in amounts determined by the Administrator. Such fees may not be less than one-half of, nor greater than, the fees required by paragraphs (1) and (2). A registrant shall pay such fees at the times corresponding to the times fees prescribed by paragraphs (1) and (2) are to be paid.

"(B) The registrants of pesticides that contain an active ingredient that is listed under subsection (c)(2)(A) and that is not an active ingredient of any pesticide that is registered for a major food or feed use shall collectively pay a fee of not more than $100,000 and not less than $50,000 at such time as the Administrator shall prescribe.

"(4) REDUCTION OR WAIVER OF FEES FOR MINOR USE AND OTHER PESTICIDES.—

"(A) An active ingredient that is contained only in pesticides that are registered solely for agricultural or nonagricultural minor uses, or a pesticide the value or volume of use of which is small, shall be exempt from the fees prescribed by paragraph (3). Agriculture and agricultural commodities.

"(B) An antimicrobial active ingredient, the production level of which does not exceed 1,000,000 pounds per year, shall be exempt from the fees prescribed by paragraph (3). For purposes of this subparagraph, the term 'antimicrobial active ingredient' means any active ingredient that is contained only in pesticides that are not registered for any food or feed use and that are—

"(i) sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surface or in water or air;

"(ii) bacteriostats intended to inhibit the growth of bacteria in the presence of moisture;

"(iii) disinfectants intended to destroy or irreversibly inactivate bacteria, fungi, or viruses on surfaces or inanimate objects;

"(iv) sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores on inanimate surfaces; or

"(v) fungicides or fungistats.

"(C)(i) Notwithstanding any other provision of this subsection, in the case of a small business registrant of a pesticide, the registrant shall pay a fee for the reregistration of each active ingredient of the pesticide that does not exceed an amount determined in accordance with this subparagraph. Small business.

"(ii) If during the 3-year period prior to reregistration the average annual gross revenue of the registrant from pesticides containing such active ingredient is—

"(I) less than $5,000,000, the registrant shall pay 0.5 percent of such revenue;

"(II) $5,000,000 or more but less than $10,000,000, the registrant shall pay 1 percent of such revenue; or

"(III) $10,000,000 or more, the registrant shall pay 1.5 percent of such revenue, but not more than $150,000. 102 STAT. 2665

"(iii) For the purpose of this subparagraph, a small business registrant is a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) during the 3-year period prior to reregistration, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

"(5) MAINTENANCE FEE.—

"(A) Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by March 1 of each year of—

"(i) in the case of a registrant holding not more than 50 pesticide registrations, $425 for each registration; and

"(ii) in the case of a registrant holding more than 50 pesticide registrations—

"(I) $425 for each registration up to 50 registrations; and

"(II) $100 for each registration over 50 registrations, except that no fee shall be charged for more than 200 registrations held by any registrant.

"(B) The amount of each fee prescribed under subparagraph (A) shall be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of $14,000,000 each fiscal year.

"(C)(i) The maximum annual fee payable by a registrant under clause (i) of subparagraph (A) (as adjusted under subparagraph (B)) shall be $20,000.

"(ii) The maximum annual fee payable by a registrant under clause (ii) of subparagraph (A) (as adjusted under subparagraph (B)) shall be $35,000.

"(D) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

Termination date.

"(E) The authority provided under this paragraph shall terminate on September 30, 1997.

"(6) OTHER FEES.—During the period beginning on the date of enactment of this section and ending on September 30, 1997, the Administrator may not levy any other fees for the registration of a pesticide under this Act except as provided in paragraphs (1) through (5).

"(7) APPORTIONMENT.—

"(A) If two or more registrants are required to pay any fee prescribed by paragraph (1), (2), or (3) with respect to a particular active ingredient, the fees for such active ingredient shall be apportioned among such registrants on the basis of the market share in United States sales of the active ingredient for the 3 calendar years preceding the date of payment of such fee, except that—

Small business.

"(i) small business registrants that produce the active ingredient shall pay fees in accordance with paragraph (4)(C); and

"(ii) registrants who have no market share but who choose to reregister a pesticide containing such active ingredient shall pay the lesser of—

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"(I) 15 percent of the reregistration fee; or

"(II) a proportionate amount of such fee based on the lowest percentage market share held by any registrant active in the marketplace.

In no event shall registrants who have no market share but who choose to reregister a pesticide containing such active ingredient collectively pay more than 25 percent of the total active ingredient reregistration fee.

"(B) The Administrator, by order, may require any registrant to submit such reports as the Administrator determines to be necessary to allow the Administrator to determine and apportion fees under this subsection or to determine the registrant's eligibility for a reduction or waiver of a fee.

"(C) If any such report is not submitted by a registrant after receiving notice of such report requirement, or if any fee prescribed by this subsection (other than paragraph (5)) for an active ingredient is not paid by a registrant to the Administrator by the time prescribed under this subsection, the Administrator, by order and without hearing, may

cancel each registration held by such registrant of a pesticide containing the active ingredient with respect to which the fee is imposed. The Administrator shall reapportion the fee among the remaining registrants and notify the registrants that the registrants are required to pay to the Administrator any unpaid balance of the fee within 30 days after receipt of such notice.

"(j) EXEMPTION OF CERTAIN REGISTRANTS.—The requirements of subsections (d), (e), (f), and (i) (other than subsection (i)(5)) regarding data concerning an active ingredient and fees for review of such data shall not apply to any person who is the registrant of a pesticide to the extent that, under section 3(c)(2)(D), the person would not be required to submit or cite such data to obtain an initial registration of such pesticide.

"(k) REREGISTRATION AND EXPEDITED PROCESSING FUND.—

"(1) ESTABLISHMENT.—There shall be established in the Treasury of the United States a reregistration and expedited processing fund.

"(2) SOURCE AND USE.—All fees collected by the Administrator under subsection (i) shall be deposited into the fund and shall be available to the Administrator, without fiscal year limitation, to carry out reregistration and expedited processing of similar applications.

"(3) EXPEDITED PROCESSING OF SIMILAR APPLICATIONS.—

"(A) The Administrator shall use each fiscal year not more than $2,000,000 of the amounts in the fund to obtain sufficient personnel and resources to assure the expedited processing and review of any application that—

"(i) proposes the initial or amended registration of an end-use pesticide that, if registered as proposed, would be identical or substantially similar in composition and labeling to a currently-registered pesticide identified in the application, or that would differ in composition and labeling from any such currently-registered pesticide only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment; or

Environmental protection.

102 STAT. 2667

"(ii) proposes an amendment to the registration of a registered pesticide that does not require scientific review of data.

"(B) Any amounts made available under subparagraph (A) shall be used to obtain sufficient personnel and resources to carry out the activities described in such subparagraph that are in addition to the personnel and resources available to carry out such activities on the date of enactment of this section.

"(4) UNUSED FUNDS.—Money in the fund not currently needed to carry out this section shall be—

"(A) maintained on hand or on deposit;

"(B) invested in obligations of the United States or guaranteed thereby; or

"(C) invested in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

"(5) ACCOUNTING.—The Administrator shall—

"(A) provide an annual accounting of the fees collected and disbursed from the fund; and

"(B) take all steps necessary to ensure that expenditures from such fund are used only to carry out this section.

"(l) JUDICIAL REVIEW.—Any failure of the Administrator to take any action required by this section shall be subject to judicial review under the procedures prescribed by section 16(b).".

(b) CONFORMING AMENDMENT.—

(1) Section 3(c)(2)(B) (7 U.S.C. 136a(c)(2)(B)) is amended by adding at the end of clauses (ii) and (iii) the following: "The Administrator shall issue a notice of intent to suspend the

registration of a pesticide in accordance with the procedures prescribed by clause (iv) if a registrant fails to comply with this clause.".

(2) Section 3(c)(2)(D) (7 U.S.C. 136a(c)(2)(D)) is amended—

(A) in the matter preceding clause (i), by striking out "an end use product" and inserting in lieu thereof "the pesticide that is the subject of the application"; and

(B) in clause (i), by striking out "the safety of".

SEC. 103. EXPEDITED REGISTRATION OF SIMILAR APPLICATIONS.

Section 3(c)(3) (7 U.S.C. 136a(c)(3)) is amended—

(1) by striking out "APPLICATION.—The Administrator" and inserting in lieu thereof "APPLICATION.—

"(A) The Administrator"; and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) The Administrator shall, as expeditiously as possible, review and act on any application received by the Administrator that—

"(I) proposes the initial or amended registration of an end-use pesticide that, if registered as proposed, would be identical or substantially similar in composition and labeling to a currently-registered pesticide identified in the application, or that would differ in composition and labeling from such currently-registered pesticide only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment; or

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"(II) proposes an amendment to the registration of a registered pesticide that does not require scientific review of data.

"(ii) In expediting the review of an application for an action described in clause (i), the Administrator shall—

"(I) within 45 days after receiving the application, notify the registrant whether or not the application is complete and, if the application is found to be incomplete, reject the application;

"(II) within 90 days after receiving a complete application, notify the registrant if the application has been granted or denied; and

"(III) if the application is denied, notify the registrant in writing of the specific reasons for the denial of the application.".

TITLE II—REVIEW AND CANCELLATION

SEC. 201. ADMINISTRATIVE CHANGES.

Section 6 (7 U.S.C. 136d) is amended by redesignating subsection (f) as subsection (h) and by inserting after subsection (e) the following new subsection:

"(f) GENERAL PROVISIONS.—

Federal Register, publication.

"(1) VOLUNTARY CANCELLATION.—A registrant at any time may request that any of its pesticide registrations be canceled or be amended to delete one or more uses. Before acting on such request, the Administrator shall publish in the Federal Register a notice of the receipt of the request. Thereafter, the Administrator may approve such a request.

Mail.

"(2) PUBLICATION OF NOTICE.—A notice of denial of registration, intent to cancel, suspension, or intent to suspend issued under this Act or a notice issued under subsection (c)(4) or (d)(5)(A) of section 3A shall be published in the Federal Register and shall be sent by certified mail, return receipt requested, to the registrant's or applicant's address of record on file with the Administrator. If the mailed notice is returned to the Administrator as undeliverable at that address, if delivery is refused, or

if the Administrator otherwise is unable to accomplish delivery of the notice to the registrant or applicant after making reasonable efforts to do so, the notice shall be deemed to have been received by the registrant or applicant on the date the notice was published in the Federal Register.".

TITLE III—RECORDS AND INSPECTIONS

SEC. 301. RECORDS.

Section 8(a) (7 U.S.C. 136f(a)) is amended—

(1) by inserting after "requiring producers" the following: ", registrants, and applicants for registration"; and

(2) by inserting before the period in the first sentence the following: "and to make the records available for inspection and copying in the same manner as provided in subsection (b)"

Public information.

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SEC. 302. INSPECTIONS.

(a) IN GENERAL.—Section 9(a) (7 U.S.C. 136g(a)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" before "For",

(B) by inserting after "employees" the following: "of the Environmental Protection Agency or of any State",

(C) by striking out "at reasonable times," and inserting in lieu thereof the following: "at reasonable times (A)", and

(D) by inserting before the period at the end the following: ", or (B) any place where there is being held any pesticide the registration of which has been suspended or canceled for the purpose of determining compliance with section 19"; and

(2) in the second sentence, by inserting "(2)" before "Before".

(b) WARRANTS.—Section 9(b) (7 U.S.C. 136g(b)) is amended by amending paragraph (1) to read as follows:

"(1) entry, inspection, and copying of records for purposes of this section or section 8;".

TITLE IV—DISPOSAL AND TRANSPORTATION

SEC. 401. STORAGE, DISPOSAL, TRANSPORTATION, AND RECALL.

Section 19 (7 U.S.C. 136q) is amended to read as follows:

"SEC. 19. STORAGE, DISPOSAL, TRANSPORTATION, AND RECALL.

"(a) STORAGE, DISPOSAL, AND TRANSPORTATION.—

"(1) DATA REQUIREMENTS AND REGISTRATION OF PESTICIDES.—The Administrator may require under section 3 or 6 that—

"(A) the registrant or applicant for registration of a pesticide submit or cite data or information regarding methods for the safe storage and disposal of excess quantities of the pesticide to support the registration or continued registration of a pesticide;

"(B) the labeling of a pesticide contain requirements and procedures for the transportation, storage, and disposal of the pesticide, any container of the pesticide, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide; and

"(C) the registrant of a pesticide provide evidence of sufficient financial and other resources to carry out a recall plan under subsection (b), and provide for the disposition of the pesticide, in the event of suspension and cancellation of the pesticide.

"(2) PESTICIDES.—The Administrator may by regulation, or as part of an order issued under section 6 or an amendment to such an order—

"(A) issue requirements and procedures to be followed by any person who stores or transports a pesticide the registration of which has been suspended or canceled;

"(B) issue requirements and procedures to be followed by any person who disposes of stocks of a pesticide the registration of which has been suspended; and

"(C) issue requirements and procedures for the disposal of any pesticide the registration of which has been canceled.

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"(b) RECALLS.—

Public health and safety. Environmental protection.

"(1) IN GENERAL.—If the registration of a pesticide has been suspended and canceled under section 6, and if the Administrator finds that recall of the pesticide is necessary to protect health or the environment, the Administrator shall order a recall of the pesticide in accordance with this subsection.

"(2) VOLUNTARY RECALL.—If, after determining under paragraph (1) that a recall is necessary, the Administrator finds that voluntary recall by the registrant and others in the chain of distribution may be as safe and effective as a mandatory recall, the Administrator shall request the registrant of the pesticide to submit, within 60 days of the request, a plan for the voluntary recall of the pesticide. If such a plan is requested and submitted, the Administrator shall approve the plan and order the registrant to conduct the recall in accordance with the plan unless the Administrator determines, after an informal hearing, that the plan is inadequate to protect health or the environment.

Regulations.

"(3) MANDATORY RECALL.—If, after determining under paragraph (1) that a recall is necessary, the Administrator does not request the submission of a plan under paragraph (2) or finds such a plan to be inadequate, the Administrator shall issue a regulation that prescribes a plan for the recall of the pesticide. A regulation issued under this paragraph may apply to any person who is or was a registrant, distributor, or seller of the pesticide, or any successor in interest to such a person.

"(4) RECALL PROCEDURE.—A regulation issued under this subsection may require any person that is subject to the regulation to—

"(A) arrange to make available one or more storage facilities to receive and store the pesticide to which the recall program applies, and inform the Administrator of the location of each such facility;

"(B) accept and store at such a facility those existing stocks of such pesticide that are tendered by any other person who obtained the pesticide directly or indirectly from the person that is subject to such regulation;

"(C) on the request of a person making such a tender, provide for proper transportation of the pesticide to a storage facility; and

"(D) take such reasonable steps as the regulation may prescribe to inform persons who may be holders of the pesticide of the terms of the recall regulation and how those persons may tender the pesticide and arrange for transportation of the pesticide to a storage facility.

"(5) CONTENTS OF RECALL PLAN.—A recall plan established under this subsection shall include—

"(A) the level in the distribution chain to which the recall is to extend, and a schedule for recall; and

"(B) the means to be used to verify the effectiveness of the recall.

"(6) REQUIREMENTS OR PROCEDURES.—No requirement or procedure imposed in accordance with paragraph (2) of subsection (a) may require the recall of existing stocks of the pesticide except as provided by this subsection.

"(c) STORAGE COSTS.—

"(1) SUBMISSION OF PLAN.—A registrant who wishes to become eligible for reimbursement of storage costs incurred as a result of a recall prescribed under subsection (b) for a pesticide whose registration has been suspended and canceled shall, as soon as practicable after the suspension of the registration of the pesticide, submit to the Administrator a plan for the storage and disposal of the pesticide that meets criteria established by the Administrator by regulation.

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"(2) REIMBURSEMENT.—Within a reasonable period of time after such storage costs are incurred and paid by the registrant, the Administrator shall reimburse the registrant, on request, for—

"(A) none of the costs incurred by the registrant before the date of submission of the plan referred to in paragraph (1) to the Administrator;

"(B) 100 percent of the costs incurred by the registrant after the date of submission of the plan to the Administrator or the date of cancellation of the registration of the pesticide, whichever is later, but before the approval of the plan by the Administrator;

"(C) 50 percent of the costs incurred by the registrant during the 1-year period beginning on the date of the approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later;

"(D) none of the costs incurred by the registrant during the 3-year period beginning on the 366th day following approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later; and

"(E) 25 percent of the costs incurred by the registrant during the period beginning on the first day of the 5th year following the date of the approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later, and ending on the date that a disposal permit for the pesticide is issued by a State or an alternative plan for disposal of the pesticide in accordance with applicable law has been developed.

"(d) ADMINISTRATION OF STORAGE, DISPOSAL, TRANSPORTATION, AND RECALL PROGRAMS.—

"(1) VOLUNTARY AGREEMENTS.—Nothing in this section shall be construed as preventing or making unlawful any agreement between a seller and a buyer of any pesticide or other substance regarding the ultimate allocation of the costs of storage, transportation, or disposal of a pesticide.

"(2) RULE AND REGULATION REVIEW.—Section 25(a)(4) shall not apply to any regulation issued under subsection (a)(2) or (b).

"(3) LIMITATIONS.—No registrant shall be responsible under this section for a pesticide the registration of which is held by another person. No distributor or seller shall be responsible under this section for a pesticide that the distributor or seller did not hold or sell.

"(4) SEIZURE AND PENALTIES.—If the Administrator finds that a person who is subject to a regulation or order under subsection (a)(2) or (b) has failed substantially to comply with that regulation or order, the Administrator may take action under section 13 or 14 or obtain injunctive relief under section 16(c) against such person or any successor in interest of any such person.".

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SEC. 402. CONTAINERS, RINSATES, AND OTHER MATERIALS.

Section 19(a) (7 U.S.C. 136q(a)) (as amended by section 401 of this Act) is further amended by adding at the end thereof the following new paragraph:

"(3) CONTAINERS, RINSATES, AND OTHER MATERIALS.—The Administrator may by regulation, or as part of an order issued under section 6 or an amendment to such an order—

"(A) issue requirements and procedures to be followed by any person who stores or transports any container of a pesticide the registration of which has been suspended or canceled, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide;

"(B) issue requirements and procedures to be followed by any person who disposes of stocks of any container of a pesticide the registration of which has been suspended, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide; and

"(C) issue requirements and procedures for the disposal of any container of a pesticide the registration of which has been canceled, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide.".

SEC. 403. PESTICIDE CONTAINERS.

Section 19 (7 U.S.C. 136q) (as amended by section 401 of this Act) is further amended by adding at the end thereof the following new subsections:

"(e) CONTAINER DESIGN.—

"(1) PROCEDURES.—

Regulations.

"(A) Not later than 3 years after the effective date of this subsection, the Administrator shall, in consultation with the heads of other interested Federal agencies, promulgate regulations for the design of pesticide containers that will promote the safe storage and disposal of pesticides.

"(B) The regulations shall ensure, to the fullest extent practicable, that the containers—

"(i) accommodate procedures used for the removal of pesticides from the containers and the rinsing of the containers;

"(ii) facilitate the safe use of the containers, including elimination of splash and leakage of pesticides from the containers;

"(iii) facilitate the safe disposal of the containers; and

"(iv) facilitate the safe refill and reuse of the containers.

"(2) COMPLIANCE.—The Administrator shall require compliance with the regulations referred to in paragraph (1) not later than 5 years after the effective date of this subsection.

"(f) PESTICIDE RESIDUE REMOVAL.—

"(1) PROCEDURES.—

Regulations.

"(A) Not later than 3 years after the effective date of this subsection, the Administrator shall, in consultation with the heads of other interested Federal agencies, promulgate regulations prescribing procedures and standards for the removal of pesticides from containers prior to disposal.

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"(B) The regulations may—

"(i) specify, for each major type of pesticide container, procedures and standards providing for, at a minimum, triple rinsing or the equivalent degree of pesticide removal;

"(ii) specify procedures that can be implemented promptly and easily in various circumstances and conditions;

"(iii) provide for reuse, whenever practicable, or disposal of rinse water and residue; and

"(iv) be coordinated with requirements for the rinsing of containers imposed under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

"(C) The Administrator may, at the discretion of the Administrator, exempt products intended solely for household use from the requirements of this subsection.

"(2) COMPLIANCE.—Effective beginning 5 years after the effective date of this subsection, a State may not exercise primary enforcement responsibility under section 26, or certify an applicator under section 4, unless the Administrator determines that the State is carrying out an adequate program to ensure compliance with this subsection.

"(3) SOLID WASTE DISPOSAL ACT.—Nothing in this subsection shall affect the authorities or requirements concerning pesticide containers under the Solid Waste Disposal Act (42 U.S.C. 6901).

"(g) PESTICIDE CONTAINER STUDY.—

"(1) STUDY.—

"(A) The Administrator shall conduct a study of options to encourage or require—

"(i) the return, refill, and reuse of pesticide containers;

"(ii) the development and use of pesticide formulations that facilitate the removal of pesticide residues from containers; and

"(iii) the use of bulk storage facilities to reduce the number of pesticide containers requiring disposal.

"(B) In conducting the study, the Administrator shall—

"(i) consult with the heads of other interested Federal agencies, State agencies, industry groups, and environmental organizations; and

"(ii) assess the feasibility, costs, and environmental benefits of encouraging or requiring various measures or actions.

"(2) REPORT.—Not later than 2 years after the effective date of this subsection, the Administrator shall submit to Congress a report describing the results of the study required under paragraph (1).

"(h) RELATIONSHIP TO SOLID WASTE DISPOSAL ACT.—Nothing in this section shall diminish the authorities or requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).".

SEC. 404. NOTICE FOR STORED PESTICIDES WITH CANCELED OR SUSPENDED REGISTRATIONS.

Section 6 (7 U.S.C. 136d) (as amended by section 201(a) of this Act) is amended by adding after subsection (f) the following:

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"(g) NOTICE FOR STORED PESTICIDES WITH CANCELED OR SUSPENDED REGISTRATIONS.—

"(1) IN GENERAL.—Any producer or exporter of pesticides, registrant of a pesticide, applicant for registration of a pesticide, applicant for or holder of an experimental use permit, commercial applicator, or any person who distributes or sells any pesticide, who possesses any pesticide which has had its registration canceled or suspended under this section shall notify the Administrator and appropriate State and local officials of—

Business and industry.
Exports.
Commerce and trade.

"(A) such possession,

"(B) the quantity of such pesticide such person possesses, and

"(C) the place at which such pesticide is stored.

"(2) COPIES.—The Administrator shall transmit a copy of each notice submitted under this subsection to the regional office of the Environmental Protection Agency which has jurisdiction over the place of pesticide storage identified in the notice.".

TITLE V—INDEMNITIES

SEC. 501. INDEMNITIES.

(a) IN GENERAL.—Effective 180 days after the date of enactment of this Act, section 15 (7 U.S.C. 136m) is amended to read as follows:

Effective date.

"SEC. 15. INDEMNITIES.

"(a) GENERAL INDEMNIFICATION.—

"(1) IN GENERAL.—Except as otherwise provided in this section, if—

"(A) the Administrator notifies a registrant under section 6(c)(1) that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 6(c)(3) has been issued;

"(B) the registration in question is suspended under section 6(c), and thereafter is canceled under section 6(b), 6(d), or 6(f); and

"(C) any person who owned any quantity of the pesticide immediately before the notice to the registrant under subparagraph (A) suffered losses by reason of suspension or cancellation of the registration;

the Administrator shall make an indemnity payment to the person.

"(2) EXCEPTION.—Paragraph (1) shall not apply if the Administrator finds that the person—

"(A) had knowledge of facts that, in themselves, would have shown that the pesticide did not meet the requirements of section 3(c)(5) for registration; and

"(B) continued thereafter to produce the pesticide without giving timely notice of such facts to the Administrator.

"(3) REPORT.—If the Administrator takes an action under paragraph (1) that requires the payment of indemnification, the Administrator shall report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate on—

102 STAT. 2675

"(A) the action taken that requires the payment of indemnification;

"(B) the reasons for taking the action;

"(C) the estimated cost of the payment; and

"(D) a request for the appropriation of funds for the payment.

"(4) APPROPRIATION.—The Administrator may not make a payment of indemnification under paragraph (1) unless a specific line item appropriation of funds has been made in advance for the payment.

"(b) INDEMNIFICATION OF END USERS, DEALERS, AND DISTRIBUTORS.—

"(1) END USERS.—If—

"(A) the Administrator notifies a registrant under section 6(c)(1) that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 6(c)(3) has been issued;

"(B) the registration in question is suspended under section 6(c), and thereafter is canceled under section 6(b), 6(d), or 6(f); and

"(C) any person who, immediately before the notice to the registrant under subparagraph (A), owned any quantity of the pesticide for purposes of applying or using the pesticide as an end user, rather than for purposes of distributing or selling it or further processing it for distribution or sale, suffered a loss by reason of the suspension or cancellation of the pesticide;

the person shall be entitled to an indemnity payment under this subsection for such quantity of the pesticide.

"(2) DEALERS AND DISTRIBUTORS.—

"(A) Any registrant, wholesaler, dealer, or other distributor (hereinafter in this paragraph referred to as a 'seller') of a registered pesticide who distributes or sells the pesticide directly to any person not described as an end user in paragraph (1)(C) shall, with respect to any quantity of the

pesticide that such person cannot use or resell as a result of the suspension or cancellation of the pesticide, reimburse such person for the cost of first acquiring the pesticide from the seller (other than the cost of transportation, if any), unless the seller provided to the person at the time of distribution or sale a notice, in writing, that the pesticide is not subject to reimbursement by the seller.

"(B) If—

"(i) the Administrator notifies a registrant under section 6(c)(1) that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 6(c)(3) has been issued;

"(ii) the registration in question is suspended under section 6(c), and thereafter is canceled under section 6(b), 6(d), or 6(f);

"(iii) any person who, immediately before the notice to the registrant under clause (i)—

"(I) had not been notified in writing by the seller, as provided under subparagraph (A), that any quantity of the pesticide owned by such person is not subject to reimbursement by the seller in the event of suspension or cancellation of the pesticide; and

"(II) owned any quantity of the pesticide for purposes of—

"(aa) distributing or selling it; or

"(bb) further processing it for distribution or sale directly to an end user;

suffered a loss by reason of the suspension or cancellation of the pesticide; and

"(iv) the Administrator determines on the basis of a claim of loss submitted to the Administrator by the person, that the seller—

"(I) did not provide the notice specified in subparagraph (A) to such person; and

"(II) is and will continue to be unable to provide reimbursement to such person, as provided under subparagraph (A), for the loss referred to in clause (iii), as a result of the insolvency or bankruptcy of the seller and the seller's resulting inability to provide such reimbursement;

the person shall be entitled to an indemnity payment under this subsection for such quantity of the pesticide.

"(C) If an indemnity payment is made by the United States under this paragraph, the United States shall be subrogated to any right that would otherwise be held under this paragraph by a seller who is unable to make a reimbursement in accordance with this paragraph with regard to reimbursements that otherwise would have been made by the seller.

"(3) SOURCE.—Any payment required to be made under paragraph (1) or (2) shall be made from the appropriation provided under section 1304 of title 31, United States Code.

"(4) ADMINISTRATIVE SETTLEMENT.—An administrative settlement of a claim for such indemnity may be made in accordance with the third paragraph of section 2414 of title 28, United States Code, and shall be regarded as if it were made under that section for purposes of section 1304 of title 31, United States Code.

"(c) AMOUNT OF PAYMENT.—

"(1) IN GENERAL.—The amount of an indemnity payment under subsection (a) or (b) to any person shall be determined on the basis of the cost of the pesticide owned by the person (other than the cost of transportation, if any) immediately before the issuance of the notice to the registrant referred to in subsection (a)(1)(A), (b)(1)(A), or (b)(2)(B)(i), except that in no event shall an

indemnity payment to any person exceed the fair market value of the pesticide owned by the person immediately before the issuance of the notice.

"(2) SPECIAL RULE.—Notwithstanding any other provision of this Act, the Administrator may provide a reasonable time for use or other disposal of the pesticide. In determining the quantity of any pesticide for which indemnity shall be paid under this section, proper adjustment shall be made for any pesticide used or otherwise disposed of by the owner.".

7 USC 136m note.

(b) INTERIM PAYMENTS.—

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(1) SOURCE.—Any obligation of the Administrator to pay an indemnity arising under section 15, as it existed prior to the effective date of the amendment made by this section, shall be made from the appropriation provided under section 1304 of title 31, United States Code.

(2) ADMINISTRATIVE SETTLEMENT.—An administrative settlement of a claim for such indemnity may be made in accordance with the third paragraph of section 2414 of title 28, United States Code, and shall be regarded as if it were made under that section for purposes of section 1304 of title 31, United States Code.

TITLE VI—GENERAL

SEC. 601. DEFINITIONS.

(a) IN GENERAL.—

(1) TO USE ANY REGISTERED PESTICIDE IN A MANNER INCONSISTENT WITH ITS LABELING.—The first proviso of section 2(ee) (7 U.S.C. 136(ee)) is amended—

(A) in clause (1), by inserting before the comma at the end thereof the following: "unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency"; and

(B) in clause (3), by inserting before the comma at the end thereof the following: "unless the labeling specifically states that the product may be applied only by the methods specified on the labeling".

(2) TO DISTRIBUTE OR SELL.—Section 2 (as amended by section 101 of this Act) is further amended by adding at the end thereof the following new subsection:

"(gg) TO DISTRIBUTE OR SELL.—The term 'to distribute or sell' means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. The term does not include the holding or application of registered pesticides or use dilutions thereof by any applicator who provides a service of controlling pests without delivering any unapplied pesticide to any person so served.".

(b) CONFORMING AMENDMENTS.—

(1) REGISTRATION OF PESTICIDES.—Subsection (a) of section 3 (7 U.S.C. 136a(a)) is amended to read as follows:

"(a) REQUIREMENT OF REGISTRATION.—Except as provided by this Act, no person in any State may distribute or sell to any person any pesticide that is not registered under this Act. To the extent necessary to prevent unreasonable adverse effects on the environment, the Administrator may by regulation limit the distribution, sale, or use in any State of any pesticide that is not registered under this Act and that is not the subject of an experimental use permit under section 5 or an emergency exemption under section 18.".

Environmental protection.

(2) UNLAWFUL ACTS.—Section 12(a) (7 U.S.C. 136j(a)) is amended—

(A) in paragraph (1), by striking out "distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—" and inserting in lieu thereof "distribute or sell to any person—"; and

(B) in paragraph (2)(F), by striking out "to make" and inserting in lieu thereof "to distribute or sell, or to make". 102 STAT. 2678

SEC. 602. SCIENTIFIC ADVISORY PANEL.

The sentence beginning "The advisory panel established" in section 25(d) (7 U.S.C. 136w(d)) is amended to read as follows: "The advisory panel established under this section shall be permanent.".

SEC. 603. UNLAWFUL ACTS.

Section 12(a) (7 U.S.C. 136j(a)) (as amended by section 601(b)(2) of this Act) is further amended—

(1) in paragraph (1), by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) any pesticide that is not registered under section 3 or whose registration has been canceled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this Act;"; and

(2) in paragraph (2)—

(A) by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) to refuse to—

"(i) prepare, maintain, or submit any records required by or under section 5, 7, 8, 11, or 19; Records

"(ii) submit any reports required by or under section 5, 6, 7, 8, 11, or 19; or Reports

"(iii) allow any entry, inspection, copying of records, or sampling authorized by this Act;";

(B) by striking out subparagraphs (J) and (K) and inserting in lieu thereof the following new subparagraphs:

"(J) to violate any suspension order issued under section 3(c)(2)(B), 3A, or 6;

"(K) to violate any cancellation order issued under this Act or to fail to submit a notice in accordance with section 6(g);";

(C) in subparagraph (M), by striking out "section 8" and inserting in lieu thereof "this Act"; and

(D) by adding at the end thereof the following new subparagraphs:

"(Q) to falsify all or part of any information relating to the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof), including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion or opinion formed, submitted to the Administrator, or that the person knows will be furnished to the Administrator or will become a part of any records required to be maintained by this Act; Records

"(R) to submit to the Administrator data known to be false in support of a registration; or

"(S) to violate any regulation issued under section 3(a) or 19.".

SEC. 604. PENALTIES.

Paragraph (1) of section 14(b) (7 U.S.C. 136l(b)) is amended to read as follows:

"(1) IN GENERAL.—

"(A) Any registrant, applicant for a registration, or producer who knowingly violates any provision of this Act shall be fined not more than $50,000 or imprisoned for not more than 1 year, or both. 102 STAT. 2679

"(B) Any commercial applicator of a restricted use pesticide, or any other person not described in subparagraph (A) who distributes or sells pesticides or devices, who knowingly violates any provision of this Act shall be fined not more than $25,000 or imprisoned for not more than 1 year, or both.".

SEC. 605. CONGRESSIONAL REVIEW.

Paragraph (4) of section 25(a) (7 U.S.C. 136w(a)(4)) is amended to read as follows:

"(4) CONGRESSIONAL REVIEW OF REGULATIONS.—Simultaneously with the promulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. The rule or regulation shall not become effective until the passage of 60 calendar days after the rule or regulation is so transmitted.".

TITLE VII—AUTHORIZATION FOR APPROPRIATIONS

SEC. 701. AUTHORIZATION FOR APPROPRIATIONS.

Effective date.

Effective October 1, 1988, section 31 (7 U.S.C. 136y) is amended to read as follows:

"SEC. 31. AUTHORIZATION FOR APPROPRIATIONS.

"There is authorized to be appropriated to carry out this Act (other than section 23(a))—

"(1) $83,000,000 for fiscal year 1989, of which not more than $13,735,500 shall be available for research under this Act;

"(2) $95,000,000 for fiscal year 1990, of which not more than $14,343,600 shall be available for research under this Act; and

"(3) $95,000,000 for fiscal year 1991, of which not more than $14,978,200 shall be available for research under this Act.".

TITLE VIII—TECHNICAL AMENDMENTS

SEC. 801. TECHNICAL AMENDMENTS.

(a) SECTION 2.—Section 2 (7 U.S.C. 136) is amended—

(1) in subsection (c), by striking out "if:" and inserting in lieu thereof "if—";

(2) in subsection (p)(2), by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services";

(3) in subsection (q)(2)(A), by striking out "if:" and inserting in lieu thereof "if—";

(4) in subsection (q)(2)(C)(iii), by striking out ": *Provided,* That" and inserting in lieu thereof ", except that";

(5) in subsection (u)—

(A) by striking out ": *Provided,* That" and inserting in lieu thereof ", except that";

(B) by striking out "(1)(a)";

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(C) by striking out "or (b)";

(D) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services";

(E) by striking out "(2) that" and inserting in lieu thereof "that"; and

(F) by striking out "an article covered by clause (1) of this proviso" and inserting in lieu thereof "a new animal drug"; and

(6) in subsection (ee)—

(A) by striking out ": *Provided,* That the term" and inserting in lieu thereof ", except that the term";

(B) by striking out "or" before clause (4);

(C) by striking out ": *Provided further,* That the term also shall not include" and inserting in lieu thereof ", (5)";

(D) by striking out "or any use" and inserting in lieu thereof "or (6) any use"; and

(E) by striking out ": *And provided further,* That after" and inserting in lieu thereof a period and "After".

(b) SECTION 3.—Section 3 (7 U.S.C. 136a) is amended—

(1) in subsection (c)(1)(D), by striking out "subsection (c)(2)(D) of this section" and inserting in lieu thereof "paragraph (2)(D)";

(2) in subsection (c)(1)(D)(i)—

(A) by striking out "With" and inserting in lieu thereof "with", and

(B) by striking out ": *Provided,* That" and inserting in lieu thereof ", except that";

(3) in subsection (c)(1)(D)(ii), by striking out "subparagraph (D)(i) of this paragraph" and inserting in lieu thereof "clause (i)";

(4) in subsection (c)(1)(D)(iii), by striking out "subparagraphs (D)(i) and (D)(ii) of this paragraph" and inserting in lieu thereof "clauses (i) and (ii)";

(5) in subsection (c)(2)—

(A) by striking out "(2)(A) DATA IN SUPPORT OF REGISTRATION.—The" and inserting in lieu thereof the following: "(2) DATA IN SUPPORT OF REGISTRATION.—

"(A) The";

(B) by indenting all of subparagraph (A) (as amended by the preceding provisions of this Act) two ems, so as to align its left margin with the margin of subparagraph (A) of section 3(d)(1);

(C) in subparagraph (B), by striking out "(B)" and all that follows through "(i) If" and inserting in lieu thereof the following:

"(B)(i) If";

(D) by realigning clauses (ii), (iii), (iv), and (v) of subparagraph (B) (as amended by the preceding provisions of this Act) two ems to the left, so as to align the left margin of each clause with the margin of subparagraph (A) (as amended by subparagraph (B) of this paragraph); 102 STAT. 2681

(E) in the fourth sentence of subparagraph (B)(iv), by striking out ": *Provided,* That the" and inserting in lieu thereof a period and "The";

(F) in the first sentence of subparagraph (B)(v), by striking out "subsection (c)(1)(D) of this section" and inserting in lieu thereof "paragraph (1)(D)";

(G) in subparagraph (C), by striking out "SIMPLIFIED PROCEDURES.—"; and

(H) by indenting all of subparagraph (C) two ems, so as to align its left margin with the margin of subparagraph (A) (as amended by subparagraph (B) of this paragraph);

(6) in subsection (c)(7)—

(A) by striking out "subsection (c)(5) of this section" each place it appears and inserting in lieu thereof "paragraph (5)";

(B) in the second sentence of subparagraph (A), by striking out ": *Provided,* That, if" and inserting in lieu thereof a period and "If";

(C) in subparagraph (B), by striking out ": *Provided,* That, if" and inserting in lieu thereof a period and "If"; and

(D) in subparagraph (C), by striking out ": *Provided,* That a" and inserting in lieu thereof a period and "A";

(7) in subsection (d)(1)(A)—

(A) in the first sentence, by striking out ", provided that if" and inserting in lieu thereof a period and "If";

(B) in the last sentence, by striking out ": *Provided, however,* That the" and inserting in lieu thereof a period and "The";

(8) in subsection (f)(2), by striking out ": *Provided,* That as" and inserting in lieu thereof a period and "As"; and

(9) by striking out subsection (g).

(c) SECTION 4.—Section 4(a)(1) (7 U.S.C. 136b(a)(1)) is amended—

(1) by striking out ": *Provided,* That such" and inserting in lieu thereof a period and "Such"; and

(2) by striking out ": *Provided, however,* That the" and inserting in lieu thereof a period and "The".

(d) SECTION 5.—The last sentence of section 5(g) (7 U.S.C. 136c(g)) is amended by striking out ": *Provided,* That such" and inserting in lieu thereof a period and "Such".

(e) SECTION 6.—Section 6 (7 U.S.C. 136d) is amended—

(1) in subsection (a), by striking out ": *Provided,* That the" and inserting in lieu thereof a period and "The";

(2) in subsection (c), by striking out "Agency" each place it appears and inserting in lieu thereof "Administrator";

(3) in subsection (c)(1), by running into the second sentence the undesignated paragraph in that subsection;

(4) in the second sentence of subsection (c)(3)—

(A) by striking out "(i)" and inserting in lieu thereof "(A)"; and

(B) by striking out "(ii)" and inserting in lieu thereof "(B)";

(5) in subsection (e)(1), by striking out ": *Provided,* That the" and inserting in lieu thereof a period and "The"; and

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(6) in the second sentence of subsection (e)(2), by striking out ": *Provided,* That the" and inserting in lieu thereof a period and "The".

(f) SECTION 10.—Section 10(d) (7 U.S.C. 136h(d)) is amended—

(1) in paragraph (1)—

(A) by striking out ": *Provided,* That the" and inserting in lieu thereof a period and "The"; and

(B) by striking out ": *Provided further,* That this" and inserting in lieu thereof a period and "This"; and

(2) in the second sentence of paragraph (3), by striking out ": *Provided,* That where" and inserting in lieu thereof a period and "Where".

(g) SECTION 12.—Section 12(a)(2)(F) (7 U.S.C. 136j(a)(2)(F)) is amended by striking out ": *Provided,* That it" and inserting in lieu thereof a period and "It".

(h) SECTION 13.—Section 13 (7 U.S.C. 136k) is amended—

(1) in subsection (b), by moving the last sentence in paragraph (3) after such paragraph as a full measure sentence; and

(2) in the first sentence of subsection (c) by striking out ": *Provided,* That upon" and inserting in lieu thereof a period and "On".

(i) SECTION 16.—Subsection (a) of section 16 (7 U.S.C. 136n) is amended to read as follows:

"(a) DISTRICT COURT REVIEW.—Except as otherwise provided in this Act, the refusal of the Administrator to cancel or suspend a registration or to change a classification not following a hearing and other final actions of the Administrator not committed to the discretion of the Administrator by law are judicially reviewable by the district courts of the United States.".

(j) SECTION 17.—Section 17(c) (7 U.S.C. 136o(c)) is amended—

(1) by striking out ": *Provided,* That the" and inserting in lieu thereof a period and "The"; and

(2) by striking out ": *And provided further,* That all" and inserting in lieu thereof a period and "All".

(k) SECTION 18.—Section 18 (7 U.S.C. 136p) is amended—

(1) in the heading, by inserting "AND STATE" after "FEDERAL"; and

(2) by running in the second sentence after the first sentence.

(l) SECTION 21.—Section 21 (7 U.S.C. 136s) is amended—

(1) in subsection (a), by inserting "SECRETARY OF AGRICULTURE.—" after the subsection designation;

(2) in subsection (b), by inserting "VIEWS.—" after the subsection designation; and

(3) in subsection (c), by inserting "NOTICE.—" after the subsection designation.

(m) SECTION 24.—Section 24 (7 U.S.C. 136v) is amended—

(1) in subsection (a), by inserting "IN GENERAL.—" after the subsection designation;

(2) in subsection (b), by inserting "UNIFORMITY.—" after the subsection designation; and

(3) in subsection (c)—

(A) by striking out "(c)(1) A" and inserting in lieu thereof the following:

"(c) ADDITIONAL USES.—

"(1) A"; and

(B) by indenting each paragraph two ems, so as to align the left margin of each paragraph with the margin of paragraph (1) of section 25(c).

(n) SECTION 25.—Section 25 (7 U.S.C. 136w) is amended—

(1) in subsection (a)—

(A) by striking out "(a)(1) REGULATIONS.—The" and inserting in lieu thereof the following:

"(a) IN GENERAL.—

"(1) REGULATIONS.—The";

(B) by indenting paragraphs (1), (2), and (3) two ems, so as to align the left margin of each paragraph with the margin of paragraph (1) of section 25(c) and by indenting each subparagraph of paragraph (2) two ems; and

(C) in paragraph (3), by striking out "Committee on Agriculture and Forestry" and inserting in lieu thereof "Committee on Agriculture, Nutrition, and Forestry"; and

(2) in the second sentence of subsection (e) by striking out ": *Provided,* That whenever" and inserting in lieu thereof a period and "Whenever".

(o) SECTION 26.—Section 26 (7 U.S.C. 136w-1) is amended—

(1) in subsection (a), by inserting "IN GENERAL.—" after the subsection designation;

(2) in subsection (a)(1), by striking out "; *Provided,* That the" and inserting in lieu thereof ", except that the";

(3) in subsection (b), by inserting "SPECIAL RULES.—" after the subsection designation; and

(4) in subsection (c), by inserting "ADMINISTRATOR.—" after the subsection designation.

(p) SECTION 27.—Section 27 (7 U.S.C. 136w-2) is amended—

(1) in subsection (a), by inserting "REFERRAL.—" after the subsection designation;

(2) in subsection (b), by inserting "NOTICE.—" after the subsection designation; and

(3) in subsection (c), by inserting "CONSTRUCTION.—" after the subsection designation.

(q) REDESIGNATION OF SECTIONS 3A AND 4.—

(1) SECTION 4 INTO SECTION 11.—

(A) Subsections (a), (b), and (c) of section 4 (7 U.S.C. 136b) are transferred to section 11 and inserted at the beginning and subsections (a) and (b) of section 11 (7 U.S.C. 136i) are redesignated as subsections (d) and (e), respectively.

(B) Section 4 is amended by striking out

"SEC. 4. USE OF RESTRICTED USE PESTICIDES; CERTIFIED APPLICATORS.".

(C) The section heading for section 11 is amended to read as follows: "USE OF RESTRICTED USE PESTICIDES; APPPLICATORS.".

(D) Sections 5(f), 19(f)(2) (as added by section 401 of this Act), and 26(b) are each amended by striking out "section 4" and inserting in lieu thereof "section 11". 7 USC 136c, 136q, 136w-1.

(2) REDESIGNATION OF SECTION 3A AS SECTION 4.—

(A) IN GENERAL.—Section 3A (as added by section 102 of this Act) is redesignated as section 4. 7 USC 136a-1.

(B) CONFORMING AMENDMENTS.—Sections 6(f)(2) (as added by section 201 of this Act) and 12(a)(2)(J) (as amended by

7 USC 136d, 136j.

section 603 of this Act) are each amended by striking out "3A" and inserting in lieu thereof "4".

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SEC. 802. TABLE OF CONTENTS AMENDMENT.

Subsection (b) of section 1 (7 U.S.C. prec. 121) is amended to read as follows:

"(b) TABLE OF CONTENTS.—

"Section 1. Short title and table of contents.
"(a) Short title.
"(b) Table of contents.
"Sec. 2. Definitions.
"(a) Active ingredient.
"(b) Administrator.
"(c) Adulterated.
"(d) Animal.
"(e) Certified applicator, etc.
"(1) Certified applicator.
"(2) Private applicator.
"(3) Commercial applicator.
"(4) Under the direct supervision of a certified applicator.
"(f) Defoliant.
"(g) Desiccant.
"(h) Device.
"(i) District court.
"(j) Environment.
"(k) Fungus.
"(l) Imminent hazard.
"(m) Inert ingredient.
"(n) Ingredient statement.
"(o) Insect.
"(p) Label and labeling.
"(1) Label.
"(2) Labeling.
"(q) Misbranded.
"(r) Nematode.
"(s) Person
"(t) Pest.
"(u) Pesticide.
"(v) Plant regulator.
"(w) Producer and produce.
"(x) Protect health and the environment.
"(y) Registrant.
"(z) Registration.
"(aa) State.
"(bb) Unreasonable adverse effects on the environment.
"(cc) Weed.
"(dd) Establishment.
"(ee) To use any registered pesticide in a manner inconsistent with its labeling.
"(ff) Outstanding data requirement.
"(gg) To distribute or sell.
"Sec. 3. Registration of pesticides.
"(a) Requirement of registration.
"(b) Exemptions.
"(c) Procedure for registration.
"(1) Statement required.
"(2) Data in support of registration.
"(3) Time for acting with respect to application.
"(4) Notice of application.
"(5) Approval of registration.
"(6) Denial of registration.
"(7) Registration under special circumstances.
"(8) Interim administrative review.
"(d) Classification of pesticides.
"(1) Classification for general use, restricted use, or both.
"(2) Change in classification.
"(3) Change in classification from restricted use to general use.
"(e) Products with same formulation and claims.

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"(f) Miscellaneous.
"(1) Effect of change of labeling or formulation.
"(2) Registration not a defense.
"(3) Authority to consult other Federal agencies.
"Sec. 4. Reregistration of registered pesticides.
"(a) General rule.
"(b) Reregistration phases.
"(c) Phase one.
"(1) Priority for reregistration.
"(2) Reregistration lists.
"(3) Judicial review.
"(4) Notice to registrants.

"(d) Phase two.
"(1) In general.
"(2) Notice of intent to seek or not to seek reregistration.
"(3) Missing or inadequate data.
"(4) Time periods.
"(5) Cancellation and removal.
"(6) Suspensions and penalties.
"(e) Phase three.
"(1) Information about studies.
"(2) Time periods.
"(3) Cancellation.
"(4) Guidelines.
"(5) Monitoring.
"(f) Phase four.
"(1) Independent review and identification of outstanding data requirements.
"(2) Time periods.
"(3) Suspensions and penalties.
"(g) Phase five.
"(1) Data review.
"(2) Reregistration and other actions.
"(h) Compensation of data submitter.
"(i) Fees.
"(1) Initial fee for food or feed use pesticide active ingredients.
"(2) Final fee for food or feed use pesticide active ingredients.
"(3) Fees for other pesticide active ingredients.
"(4) Reduction or waiver of fees for minor use and other pesticides.
"(5) Maintenance fee.
"(6) Other fees.
"(7) Apportionment.
"(j) Exemption of certain registrants.
"(k) Reregistration and expedited processing fund.
"(1) Establishment.
"(2) Source and use.
"(3) Expedited processing of similar applications.
"(4) Unused funds.
"(5) Accounting.
"(l) Judicial review.
"Sec. 5. Experimental use permits.
"(a) Issuance.
"(b) Temporary tolerance level.
"(c) Use under permit.
"(d) Studies.
"(e) Revocation.
"(f) State issuance of permits.
"(g) Exemption for agricultural research agencies.
"Sec. 6. Administrative review; suspension.
"(a) Cancellation after five years.
"(1) Procedure.
"(2) Information.
"(b) Cancellation and change in classification or labels.
"(c) Suspension.
"(1) Order.
"(2) Expedite hearing.
"(3) Emergency order.
"(4) Judicial review.
"(d) Public hearings and scientific review.
"(e) Conditional registration.
"(f) General provisions.
"(1) Voluntary cancellation.
"(2) Publication of notice. 102 STAT. 2686
"(g) Notice for stored pesticides with canceled or suspended registrations.
"(1) In general.
"(2) Copies.
"(h) Judicial review.
"Sec. 7. Registration of establishments.
"(a) Requirements.
"(b) Registration.
"(c) Information required.
"(d) Confidential records and information.
"Sec. 8. Records.
"(a) Requirement.
"(b) Inspection.
"Sec. 9. Inspection of establishments, etc.
"(a) In general.
"(b) Warrants.
"(c) Enforcement.
"(1) Certification of facts to Attorney General.
"(2) Notice not required.
"(3) Warning notices.
"Sec. 10. Protection of trade secrets and other information.
"(a) In general.
"(b) Disclosure.
"(c) Disputes.

"(d) Limitations.
"(e) Disclosure to contractors.
"(f) Penalty for disclosure by Federal employees.
"(g) Disclosure to foreign and multinational pesticide producers.
"Sec. 11. Use of restricted use pesticides; applicators.
"(a) Certification procedure.
"(1) Federal certification.
"(2) State certification.
"(b) State plans.
"(c) Instruction in integrated pest management techniques.
"(d) In general.
"(e) Separate standards.
"Sec. 12. Unlawful acts.
"(a) In general.
"(b) Exemptions.
"Sec. 13. Stop sale, use, removal, and seizure.
"(a) Stop sale, etc., orders.
"(b) Seizure.
"(c) Disposition after condemnation.
"(d) Court costs, etc.
"Sec. 14. Penalties.
"(a) Civil penalties.
"(1) In general.
"(2) Private applicator.
"(3) Hearing.
"(4) Determination of penalty.
"(5) References to Attorney General.
"(b) Criminal penalties.
"(1) In general.
"(2) Private applicator.
"(3) Disclosure of information.
"(4) Acts of officers, agents, etc.
"Sec. 15. Indemnities.
"(a) General indemnification.
"(1) In general.
"(2) Exception.
"(3) Report.
"(4) Appropriation.
"(b) Indemnification of end users, dealers, and distributors.
"(1) End users.
"(2) Dealers and distributors.
"(3) Source.
"(4) Administrative settlement.
"(c) Amount of payment.
"(1) In general.
"(2) Special rule.
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"Sec. 16. Administrative procedure; judicial review.
"(a) District court review.
"(b) Review by Court of Appeals.
"(c) Jurisdiction of district courts.
"(d) Notice of judgments.
"Sec. 17. Imports and exports.
"(a) Pesticides and devices intended for export.
"(b) Cancellation notices furnished to foreign governments.
"(c) Importation of pesticides and devices.
"(d) Cooperation in international efforts.
"(e) Regulations.
"Sec. 18. Exemption of Federal and State agencies.
"Sec. 19. Storage, disposal, transportation, and recall.
"(a) Storage, disposal, and transportation.
"(1) Data requirements and registration of pesticides.
"(2) Pesticides.
"(3) Containers, rinsates, and other materials.
"(b) Recalls.
"(1) In general.
"(2) Voluntary recall.
"(3) Mandatory recall.
"(4) Recall procedure.
"(5) Contents of recall plan.
"(6) Requirements or procedures.
"(c) Storage costs.
"(1) Submission of plan.
"(2) Reimbursement.
"(d) Administration of storage, disposal, transportation, and recall programs.
"(1) Voluntary agreements.
"(2) Rule and regulation review.
"(3) Limitations.
"(4) Seizure and penalties.
"(e) Container design.
"(1) Procedures.
"(2) Compliance.
"(f) Pesticide residue removal.
"(1) Procedures.
"(2) Compliance.
"(3) Solid Waste Disposal Act.

"(g) Pesticide container study.
"(1) Study.
"(2) Report.
"(h) Relationship to Solid Waste Disposal Act.
"Sec. 20. Research and monitoring.
"(a) Research.
"(b) National monitoring plan.
"(c) Monitoring.
"Sec. 21. Solicitation of comments; notice of public hearings.
"(a) Secretary of Agriculture.
"(b) Views.
"(c) Notice.
"Sec. 22. Delegation and cooperation.
"(a) Delegation.
"(b) Cooperation.
"Sec. 23. State cooperation, aid, and training.
"(a) Cooperative agreements.
"(b) Contracts for training.
"(c) Information and education.
"Sec. 24. Authority of States.
"(a) In general.
"(b) Uniformity.
"(c) Additional uses.
"Sec. 25. Authority of Administrator.
"(a) In General.
"(1) Regulations.
"(2) Procedure.
"(3) Congressional committees.
"(4) Congressional review of regulations.
"(b) Exemption of pesticides.
"(c) Other authority.
"(d) Scientific advisory panel.
"Sec. 26. State primary enforcement responsibility.
"(a) In general.
"(b) Special rules.
"(c) Administrator.
"Sec. 27. Failure by the State to assure enforcement of State pesticide use regulations.
"(a) Referral.
"(b) Notice.
"(c) Construction.
"Sec. 28. Identification of pests; cooperation with Department of Agricuture's program.
"Sec. 29. Annual report.
"Sec. 30. Severability.
"Sec. 31. Authorization for appropriations.".

TITLE IX—EFFECTIVE DATE

SEC. 901. EFFECTIVE DATE. 7 USC 136 note.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the expiration of 60 days after the date of enactment of this Act.

Approved October 25, 1988.

LEGISLATIVE HISTORY—S. 659:

HOUSE REPORTS: No. 100-939, Pt. 1 (Comm. on Agriculture).
SENATE REPORTS: No. 100-33 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Apr. 9, considered and passed Senate.
Vol. 134 (1988): Sept. 20, considered and passed House, amended.
Sept. 28, Senate concurred in House amendments.

102 STAT. 2730 Public Law 100-546
100th Congress

An Act

Oct. 28, 1988
[H.R. 5325]

To establish a commission to review and make recommendations for the improvement of the Federal crop insurance program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Crop Insurance Commission Act of 1988.
7 USC 1508 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Crop Insurance Commission Act of 1988".

7 USC 1508 note.

SEC. 2. FINDINGS, POLICY, AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Federal crop insurance program was established to promote the national welfare by improving the economic stability of agriculture through a sound and comprehensive system of nationwide crop insurance that would allow the phasing out of disaster payments programs as part of farm price support and income protection programs;

(2) despite recent increases in the acreage covered by Federal crop insurance, the level of farmer participation in the Federal crop insurance program in most agricultural areas is below what the Congress anticipated when the Federal Crop Insurance Act of 1980 (Public Law 96-365) was enacted into law; and

(3) low levels of participation in the Federal crop insurance program, from time to time, have contributed to the need to continue disaster payment programs in response to recurring natural disasters that threaten farmers, crop production, and the food supply of the United States.

(b) STATEMENT OF POLICY.—It is hereby declared to be the policy of the Congress, in order to further the improvement of national farm policy, to determine why the Federal crop insurance program has not developed into a fully effective substitute for ad hoc disaster payment programs.

(c) PURPOSE.—The purpose of this Act is to ensure the thorough review of the Federal crop insurance program and the development of recommendations for such changes as are needed to improve the program so as to lessen, if not eliminate, the need for additional disaster payment programs, and thereby reduce the burden such programs impose on the Federal budget while providing to producers of agricultural commodities more equitable, efficient, and predictable protection from natural disasters.

7 USC 1508 note.

SEC. 3. ESTABLISHMENT OF COMMISSION.

There is hereby established a commission to be known as the Commission for the Improvement of the Federal Crop Insurance Program (in this Act referred to as the "Commission"), which shall
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review and make recommendations concerning the authorization and administration of the crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (in this Act referred to as the "program"), as provided in section 5.

7 USC 1508 note.

SEC. 4. MEMBERSHIP OF COMMISSION.

(a) IN GENERAL.—The Commission shall be composed of 25 members, 21 of whom shall be voting members and 4 of whom shall be nonvoting members.

(b) VOTING MEMBERS.—The 21 voting members of the Commission shall be the Manager of the Federal Crop Insurance Corporation and 20 other members who shall be appointed by the Secretary, as follows:

(1) APPOINTEES.—Within 30 days after the date of the enactment of this Act, the Secretary shall appoint to the Commission—

(A) 4 individuals who will represent the views of the companies (or managing general agencies which write crop insurance through other companies) that—

(i) have a 1989 reinsurance agreement under the Federal Crop Insurance Act; and

(ii) for the 1987 crop year, wrote the greatest dollar volume of federally reinsured crop insurance;

(B) 2 individuals who will represent the views of companies writing lesser dollar volumes of federally reinsured crop insurance, and 1 of whom will represent the views of the companies writing Federal crop insurance whose primary business is the writing of crop insurance for losses due to hail;

(C) 2 individuals who will represent the views of the 2 largest agencies selling non-reinsured Federal crop insurance;

(D) 2 individuals who will represent the views of national organizations of insurance agents;

(E) 1 individual who will represent the views of the largest national association representing wheat producers;

(F) 1 individual who will represent the views of the largest national association representing corn producers;

(G) 1 individual who will represent the views of the largest national association representing cotton producers;

(H) 1 individual who will represent the views of the largest national association representing soybean producers;

(I) 3 individuals who will represent the views of the 3 largest national general farm organizations; and

(J) 3 individuals who will represent the views of producers of fruits, vegetables, specialty crops, and other crops not specified in subparagraph (E), (F), (G), or (H).

(2) CONSIDERATION OF NOMINATIONS.—

(A) In making appointments under subparagraph (A) of paragraph (1), the Secretary shall consider nominations submitted by the 4 companies described in such subparagraph.

(B) In making appointments under subparagraphs (B), (C), and (D) of paragraph (1), the Secretary shall consider nominations submitted by the organizations and associations representing the insurance companies and agents that participate in the program.

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(C) In making appointments under subparagraphs (E), (F), (G), and (H) of paragraph (1), the Secretary shall consider nominations submitted by the 4 associations described in such subparagraphs.

(D) In making appointments under subparagraph (I) of paragraph (1), the Secretary shall consider nominations submitted by the organizations described in such subparagraph.

(E) In making appointments under subparagraph (J) of paragraph (1), the Secretary shall consider nominations submitted by organizations representing producers of the commodities specified in such subparagraph.

(c) NONVOTING MEMBERS.—The 4 nonvoting members of the Commission shall be—

(1) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate (or the designee of such Chairman), and the ranking minority member of such Committee (or the designee of such minority member); and

(2) the Chairman of the Committee on Agriculture of the House of Representatives (or the designee of such Chairman), and the ranking minority member of such Committee (or the designee of such minority member).

(d) ELECTION OF CO-CHAIRMEN.—At the first Commission meeting, the Commission shall elect 2 members to be the co-chairmen of the Commission, 1 of whom shall be chosen from among members

appointed under subparagraph (A), (B), (C), or (D) of subsection (b)(1), and the other of whom shall be chosen from among members appointed under subparagraph (E), (F), (G), (H), (I), or (J) of subsection (b)(1).

(e) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

7 USC 1508 note.

SEC. 5. DUTIES OF COMMISSION.

(a) STUDY OF FEDERAL CROP INSURANCE PROGRAM.—

(1) IN GENERAL.—The Commission shall—

(A) study and determine why participation in the program has not reached the levels anticipated when the Federal Crop Insurance Act of 1980 was enacted;

(B) identify the States and commodities with respect to which the lack of participation in the program is most serious; and

(C) prepare findings and recommendations setting forth means by which—

(i) participation in such program, in such States and throughout the United States, and by producers of the commodities identified under subparagraph (B), may be increased; and

(ii) natural disaster protection for producers of agricultural commodities may be improved.

(2) PARTICULAR AREAS TO BE EXAMINED.—In particular, the Commission shall examine—

(A) the reasons why more producers of agricultural commodities do not participate in the program;

(B) the adequacy of the insurance coverage provided by the program;

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(C) the adequacy of the development and use by the Federal Crop Insurance Corporation of yield data in the program, including the yields used to establish insurance coverage;

(D) the effects of the crop insurance premiums charged such producers on the level of participation in, and the cost of, the program, and the actuarial soundness of such premiums;

(E) the nature and extent of all government subsidies associated with the program;

(F) whether the sales commission rates and Federal payments for services performed by crop insurance companies and agencies are at the proper levels, taking into consideration, among other things, commission rates and payment levels charged in other property insurance programs in which the Federal Government participates;

(G) the efficiency of sales and claims adjustment services provided to such producers who purchase insurance under the program, and the effectiveness of the educational efforts to inform such producers about the program;

(H) the ways in which the provision of Federal crop insurance information and the procedures for obtaining such insurance may be made simpler, more uniform, and stable;

(I) the adequacy of compliance efforts by insurance companies, agencies, and the Federal Crop Insurance Corporation to ensure program integrity;

(J) the extent to which financial institutions require such producers to purchase crop insurance as a prerequisite to making credit available to such producers;

(K) the effect of the crop insurance requirements imposed under section 207 of the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note) on participation in the program;

(L) the feasibility of adopting "premium pools" that would set a single, nationwide "group" premium for each agricultural commodity, including the impact of such pools on the premiums paid by such producers and on govern-

ment subsidies of premiums charged under the program; and

(M) any other aspect of the program that the Commission determines has an impact on participation in, or the effectiveness of, the program.

(b) INTERIM REPORT.—Not later than April 1, 1989, the Commission shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Secretary of Agriculture (in this Act referred to as the "Secretary") an interim report containing findings and recommendations for immediate administrative improvement in the program, aimed at improving the program in the 1990 sales year.

(c) FINAL REPORT.—Not later than July 1, 1989, the Commission shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Secretary a report that shall include—

(1) recommendations for legislation including alternative methods for achieving the desired goals;

(2) a status report on the improvement of program administration by the Secretary based on the recommendations contained in the interim report and subsequent findings; and 102 STAT. 2734

(3) the findings and recommendations required to be prepared pursuant to subsection (a)(1)(C).

(d) CONTINUED MONITORING OF PROGRAM; MONTHLY REPORTS.—Beginning July 1, 1989, and ending December 31, 1990, the Commission shall continue to monitor the program and shall report on a monthly basis to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Secretary on—

(1) the extent to which the recommendations of the Commission have been implemented; and

(2) the level of participation in the program by producers of agricultural commodities.

SEC. 6. TERM OF OFFICE. 7 USC 1508 note.

Appointment to the Commission shall be for the life of the Commission.

SEC. 7. COMPENSATION OF COMMISSION MEMBERS. 7 USC 1508 note.

Commission members shall not receive pay by reason of their service on the Commission, except that the Commission shall reimburse Commission members for reasonable and necessary travel expenses incurred by such members to carry out the duties and functions of the Commission.

SEC. 8. POWERS OF COMMISSION. 7 USC 1508 note.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such information, as the Commission considers appropriate.

(b) OBTAINING OFFICIAL INFORMATION.—Subject to other law, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out the duties and functions of the Commission under this Act. On joint request of the co-chairmen of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) USE OF OTHER FEDERAL PERSONNEL AND SUPPORT SERVICES.—The head of each executive agency and the General Accounting Office shall furnish the Commission such personnel and support services as the head of such agency or Office, as the case may be, and the co-chairmen of the Commission agree are necessary to assist the Commission to carry out the duties and functions of the Commission under this Act. The Commission shall not be required to pay or reimburse such agency or Office for personnel and support services provided under this subsection.

(e) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(f) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(g) LEASING OF OFFICE SPACE.—The Commission may lease office space in the District of Columbia.

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7 USC 1508 note.

SEC. 9. DIRECTOR AND STAFF OF COMMISSION.

(a) APPOINTMENT.—Subject to such rules as may be prescribed by the Commission, the co-chairmen of the Commission may jointly appoint a staff director and such additional personnel as such co-chairmen agree are necessary to assist the Commission to carry out the duties and functions of the Commission.

(b) COMPENSATION.—Subject to such rules as may be prescribed by the Commission, the co-chairmen of the Commission may jointly fix the compensation of the staff director at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule, and the compensation of additional personnel at a rate not to exceed the maximum rate of basic pay payable for GS-16 of the General Schedule.

(c) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

7 USC 1508 note.

SEC. 10. RULES GOVERNING COMMISSION MEETINGS.

(a) QUORUM.—11 Commission members with the right to vote at Commission meetings shall constitute a quorum. Any number of Commission members may hold hearings and receive reports but only if such proceedings are conducted by a co-chairman of the Commission.

(b) INITIAL MEETING.—Within 60 days after the date of the enactment of this Act, the Secretary or the delegate of the Secretary shall conduct the first Commission meeting.

(c) SUBSEQUENT MEETINGS.—After the first Commission meeting, the Commission shall meet at the call of either co-chairman or of a majority of the Commission members.

(d) PROHIBITION ON PROXY VOTING.—Voting by proxy shall not be allowed.

7 USC 1508 note.

SEC. 11. TERMINATION.

The Commission shall cease to exist on December 31, 1990, except that the Secretary may, in the discretion of the Secretary, extend the life of the Commission beyond such date.

7 USC 1508 note.

SEC. 12. FUNDING.

From amounts appropriated to the Federal Crop Insurance Corporation for administrative and operating expenses for fiscal year 1989, the Corporation shall make available to the Commission not to exceed $1,500,000 to carry out this Act. Amounts so made available shall remain available to the Commission until expended.

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 5325:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 100-330
100th Congress

102 STAT. 591

An Act

To implement the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America.

June 7, 1988
[S. 1989]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "South Pacific Tuna Act of 1988".

South Pacific Tuna Act of 1988.
Maritime affairs.
16 USC 973 note.

SEC. 2. DEFINITIONS.

16 USC 973.

As used in this Act—

(1) The term "Administrator" means the individual or organization designated by the Pacific Island Parties to act on their behalf under the Treaty and notified to the United States Government.

(2) The term "Authorized Officer" means any officer who is authorized by the Secretary, or the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an enforcement agreement with the Secretary under section 10(a) of this Act.

(3) The term "Authorized Party Officer" means any officer authorized by a Pacific Island Party to enforce the provisions of the Treaty.

(4) The term "applicable national law" means any provision of law of a Pacific Island Party which is described in paragraph 1(a) of Annex I of the Treaty.

(5) The term "Closed Area" means any of the closed areas identified in Schedule 2 of Annex I of the Treaty.

(6) The term "fishing" means—

(A) searching for, catching, taking, or harvesting fish;

(B) attempting to search for, catch, take, or harvest fish;

(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish;

(D) placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(E) any operations at sea directly in support of, or in preparation for, any activity described in this paragraph; or

(F) aircraft use, relating to the activities described in this paragraph except for flights in emergencies involving the health or safety of crew members or the safety of a vessel.

(7) The term "fishing vessel" or "vessel" means any boat, ship, or other craft which is used for, equipped to be used for, or of a type normally used for commercial fishing, and which is documented under the laws of the United States.

(8) The term "Licensing Area" means all waters in the Treaty Area except for—

(A) those waters subject to the jurisdiction of the United States in accordance with international law;

(B) those waters within Closed Areas; and

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(C) those waters within Limited Areas closed to fishing.

(9) The term "licensing period" means the period of validity of licenses issued in accordance with the Treaty.

(10) The term "Limited Area" means any area so identified in Schedule 3 of Annex I of the Treaty.

(11) The term "operator" means any person who is in charge of, directs or controls a vessel, including the owner, charterer, and master.

(12) The term "Pacific Island Party" means a Pacific Island nation which is a party to the Treaty.

(13) The term "Party" means a nation which is a party to the Treaty.

(14) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(15) The term "Secretary" means the Secretary of Commerce, or the designee of the Secretary of Commerce.

(16) The term "State" means each of the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(17) The term "Treaty" means the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed in Port Moresby, Papua New Guinea, April 2, 1987, and its Annexes, Schedules, and implementing agreements.

(18) The term "Treaty Area" means the area so described in paragraph 1(k) of Article 1 of the Treaty.

16 USC 973a.

SEC. 3. APPLICATION TO OTHER LAWS.

The seizure by a Pacific Island Party of a vessel of the United States shall not be determined to be a seizure described in section 205(a)(4)(C) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)(4)(C)) or section 2 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1972) if the seizure is found by the Secretary of State to be in accordance with the provisions of the Treaty.

16 USC 973b.

SEC. 4. REGULATIONS.

The Secretary of Commerce, with the concurrence of the Secretary of State and after consultation with the Secretary of the department in which the Coast Guard is operating, shall issue regulations as may be necessary to carry out the purposes and objectives of the Treaty and this Act. These regulations shall be made applicable as necessary to all persons and vessels subject to the jurisdiction of the United States, wherever located.

16 USC 973c.

SEC. 5. PROHIBITED ACTS.

(a) Except as provided in section 6 of this Act, it is unlawful for any person subject to the jurisdiction of the United States—

(1) to violate any provision of this Act or any regulation or order issued pursuant to this Act;

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(2) to use a vessel for fishing in violation of an applicable national law;

(3) who has entered into a fishing arrangement under paragraph 3 of Article 3 of the Treaty, to violate the terms and conditions of such fishing arrangement if the Secretary of State has decided under section 18 of this Act that Article 4 and paragraph 6 of Article 5 of the Treaty shall apply to the arrangement;

(4) to use a vessel for fishing in any Limited Area in violation of any requirement in Schedule 3 of Annex I of the Treaty;

(5) to use a vessel for fishing in any Closed Area;

(6) to falsify any information required to be reported, notified, communicated, or recorded pursuant to a requirement of this

Act, or to fail to submit any required information, or to fail to report to the Secretary immediately any change in circumstances which has the effect of rendering any such information false, incomplete, or misleading;

(7) to intentionally destroy evidence which could be used to determine if a violation of this Act or the Treaty has occurred;

(8) to refuse to permit any Authorized Officer or Authorized Party Officer to board a fishing vessel for purposes of conducting a search or inspection in connection with the enforcement of this Act or the Treaty;

(9) to refuse to comply with the instructions of an Authorized Officer or Authorized Party Officer relating to fishing activities under the Treaty;

(10) to forcibly assault, resist, oppose, impede, intimidate, or interfere with—

(A) any Authorized Officer or Authorized Party Officer in the conduct of a search or inspection in connection with the enforcement of this Act or the Treaty; or

(B) an observer in the conduct of observer duties under the Treaty;

(11) to resist a lawful arrest for any act prohibited by this section;

(12) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; or

(13) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or the Treaty, with the knowledge that the fish were so taken or retained.

(b) Except as provided in section 6 of this Act, it is unlawful for any person subject to the jurisdiction of the United States when in the Licensing Area—

(1) to use a vessel to fish unless validly licensed as required by the Administrator;

(2) to use a vessel for directed fishing for southern bluefin tuna or for fishing for any kinds of fish other than tunas, except that fish may be caught as an incidental by-catch;

(3) to use a vessel for fishing by any method other than the purse-seine method;

(4) to use any vessel to engage in fishing after the revocation of its license, or during the period of suspension of an applicable license;

102 STAT. 594

(5) to operate a vessel in such a way as to disrupt or in any other way adversely affect the activities of traditional and locally based fishermen and fishing vessels;

(6) to use a vessel to fish in a manner inconsistent with an order issued by the Secretary under section 11 of this Act; or

(7) except for circumstances involving force majeure and other emergencies involving the health or safety of crew members or the safety of the vessel, to use an aircraft in association with the fishing activities of a vessel unless it is identified in the license application for the vessel, or any amendment thereto.

SEC. 6. EXCEPTIONS.

16 USC 973d.

(a) The prohibitions of section 5 of this Act and the licensing requirements of section 9 of this Act shall not apply to fishing for albacore tuna by vessels using the trolling method outside of the 200 nautical mile fisheries zones of the Pacific Island Parties.

(b) The prohibitions of section 5 (a)(4), (a)(5), and (b)(3) of this Act shall not apply to fishing under the terms and conditions of an arrangement which has been reached under paragraph 3 of Article 3 of the Treaty and which, pursuant to a decision by the Secretary of State under section 18 of this Act, is covered by Article 4 and paragraph 6 of Article 5 of the Treaty.

16 USC 973e.

SEC. 7. CRIMINAL OFFENSES.

(a) A person is guilty of a criminal offense if he or she commits any act prohibited by section 5(a) (8), (10), (11), or (12) of this Act.

(b) Any offense described in subsection (a) of this section is punishable by a fine of not more than $50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any Authorized Officer, Authorized Party Officer, or observer under the Treaty in the conduct of their duties, or places any such Authorized Officer, Authorized Party Officer, or observer in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than 10 years, or both.

Courts, U.S.

(c) The district courts of the United States shall have jurisdiction over any offense described in this section.

16 USC 973f.

SEC. 8. CIVIL PENALTIES.

(a) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 5 of this Act, shall be liable to the United States Code for a civil penalty. Before issuing a notice of violation, the Secretary shall consult with the Secretary of State. The amount of the civil penalty shall be determined in accordance with considerations set forth in the Treaty and shall take into account the nature, circumstances, extent, any gravity of the prohibited acts committed, and with respect to the violator, the degree of culpability, any history or prior offenses, ability to pay, and such other matters as justice may require. Except for those acts prohibited by section 5(a) (4), (5), (7), (8), (10), (11), and (12), and section 5(b) (1), (2), (3), and (7) of this Act, the amount of the civil penalty shall not exceed $250,000 for each violation. Upon written notice, the Secretary of State shall have the right to participate in any proceeding initiated to assess a civil penalty for violation of this Act.

102 STAT. 595

(b) Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the United States district court for the appropriate district by filing a complaint in such court within 30 days from the date of the order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General of the United States, and the appropriate United States Attorney. The Secretary shall promptly file in the court a certified copy of the record upon which the violation was found or the penalty imposed. The findings and order of the Secretary shall be set aside or modified by the court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

Courts, U.S. Records.

Courts, U.S.

(c) Except as provided in subsection (g) of this section, if any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States.

Courts, U.S.

(d) Except as provided in subsection (g) of this section, a fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 5 of this Act shall be liable in rem for any civil penalty assessed for the violation under section 8 of this Act and may be proceeded against in any district court of the United States having jurisdiction thereof. The penalty shall constitute a maritime lien on the vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(e) The Secretary, after consultation with the Secretary of State, may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(f) For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon a person pursuant to this subsection, the district court of the United States for any district in which the person is found, resides, or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey the order of the court may be punished by the court as a contempt thereof. Courts, U.S.

(g) If a vessel used in a violation of section 5(a) (1), (2), (3), (4), (5), (6), (7), (8), (9), or (13) or section 5(b) of this Act for which a civil penalty has been assessed—

(1) had a valid license under the Treasury at the time of the violation, and

(2) within 60 days after the penalty assessment has become final, leaves and remains outside of the Licensing Area, all Limited Areas closed to fishing, and all Closed Areas until the final penalty has been paid,

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there shall be no referral to the Attorney General under subsection (c) of this section or in rem action under subsection (d) of this section in connection with such civil penalty.

SEC. 9. LICENSES. 16 USC 973g.

(a) Licenses to fish in the Licensing Area, to be issued by the Administrator in accordance with the Treaty, may be requested from the Secretary by operators of vessels, under procedures established by the Secretary. The license application shall designate an agent for the service of legal process to be located in Port Moresby, Papua New Guinea. The applicant shall ensure that the designated agent for service of process, acting on behalf of the license holder, will receive and respond to any legal process issued in accordance with the Treaty and will, within 21 days after notification, travel if necessary for this purpose to any Pacific Island Party at no expense to that Party.

(b) Except as provided in subsections (e), (f), and (g) of this section, the Secretary shall forward a vessel license application to the Secretary of State for transmittal to the Administrator whenever such application is in accordance with application procedures established by the Secretary, includes a complete application form as required by Annex II of the Treaty, and is accompanied by the required license fee.

(c)(1) In the initial year of implementation, fees for the first 40 vessel licenses shall be at least $50,000 each, for any 10 vessel licenses in addition to the first 40 shall be $60,000 each, and for vessel licenses in addition to the first 50 shall be in accordance with Annex II of the Treaty.

(2) After such initial year, fees for vessel licenses shall be paid in accordance with fee schedules established under Annex II of the Treaty and published by the Secretary.

(d) Licenses shall be valid for the licensing period specified by the Administrator.

(e) The Secretary may establish a system of allocating licenses in the event more applications are received than there are licenses available.

(f) For the initial year of implementation, license fees totaling at least $1,750,000 must be received by the Secretary before any license applications will be forwarded to the Secretary of State for transmittal to the Administrator.

(g) The Secretary, in consultation with the Secretary of State, may determine that a license application should not be forwarded to the Administrator for one of the following reasons:

(1) where the application is not in accordance with the Treaty or the procedures established by the Secretary;

(2) where the owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, unless reasonable financial assurances have been provided to the Secretary;

(3) where the owner or charterer has not established to the satisfaction of the Secretary that the fishing vessel is fully insured against all risks and liabilities normally provided in maritime liability insurance;

(4) where the owner or charterer has not paid any penalty which has become final, assessed by the Secretary in accordance with this Act.

16 USC 973h.

SEC. 10. ENFORCEMENT.

Contracts.

(a) The provisions of this Act shall be enforced by the Secretary in cooperation with the Secretary of State. The Secretary, after consultation with the Secretary of State, may by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency and of any State agency in the performance of these duties.

Reports.

(b)(1) The Secretary shall, at the request of a Pacific Island Party made to the Secretary of State, fully investigate any alleged infringement of the Treaty involving a vessel of the United States, and report as soon as practicable, and in any case within 2 months, to that Party through the Secretary of State on any action taken or proposed by the Secretary in regard to the alleged infringement.

(2) Upon commencement of an investigation under paragraph (1) of this subsection, the Secretary shall notify the operator of any vessel concerned regarding—

(A) the nature of the investigation;

(B) the right of the operator to submit comments, information, or evidence bearing on the investigation and to receive, upon the operator's timely written request to the Secretary, an opportunity to present such comments, information, or evidence orally to the Secretary or the Secretary's representative within 30 days after receipt of such notification.

(c)(1) Prior to instituting any legal proceedings under this Act for any action which involves an alleged infringement of the Treaty in waters within the jurisdiction of a Pacific Island Party, the Secretary, through the Secretary of State, shall notify the Pacific Island Party in accordance with paragraph 8 of Article 4 of the Treaty that the proceedings will be instituted. Such notice shall include a statement of the facts believed to show an infringement of the Treaty and the nature of the proposed proceedings, including any proposed charges and any proposed penalties. The Secretary shall not institute such proceedings if the Pacific Island Party objects within 30 days after the effective date of the notice under Article 10 of the Treaty.

(2) The Pacific Island Party exercising jurisdiction over the waters involved in such a legal proceeding shall be promptly notified by the Secretary, through the Secretary of State, concerning the outcome of the proceeding.

(d)(1) Any Authorized Officer may—

(A) with or without a warrant or other process—

(i) arrest any person, if he has reasonable cause to believe that the person has committed any act subject to prosecution under section 7 of this Act;

(ii) board, and search or inspect, any fishing vessel which is subject to the provisions of this Act; or

(iii) seize samples of fish or items for evidence (other than the vessel or its fishing gear or equipment) related to any violation of any provision of this Act;

(iv) order a vessel into the most convenient port of the United States for investigation when an investigation has been requested by a Pacific Island Party in accordance with the Treaty and when such an order is necessary to gather information for such an investigation; 102 STAT. 598

(B) execute any warrant or other process issued by any court of competent jurisdiction;

(C) exercise any other lawful authority; and

(D) investigate alleged violations of the Treaty to the same extent authorized to investigate alleged violations of this Act.

(2) To the extent possible, Authorized Officers shall exercise their powers under paragraph (1)(A) (ii), (iii), and (iv) of this subsection so as not to interfere unduly with the lawful operation of the vessel.

(3) Nothing in this Act shall be construed to limit the enforcement of this or other applicable Federal laws under section 89 of title 14, United States Code.

(e) The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. Courts, U.S.

SEC. 11. FINDINGS BY THE SECRETARY. 16 USC 973i.

(a) Following any investigation conducted in accordance with section 10(b) of this Act, the Secretary, with the concurrence of the Secretary of State, and upon the request of the Pacific Island Party concerned, may order a fishing vessel which has not submitted to the jurisdiction of that Pacific Island Party to leave immediately the Licensing Area, all Limited Areas, and all Closed Areas upon making a finding—

(1) that the fishing vessel—

(A) while fishing in the Licensing Area did not have a license under the Treaty to fish in the Licensing Area, and that under paragraph 2 of Article 3 of the Treaty, such fishing is not authorized to be conducted in the Licensing Area without a license;

(B) was involved in any incident in which an Authorized Officer, Authorized Party Officer, or observer was allegedly assaulted with resultant bodily harm, physically threatened, forcefully resisted, refused boarding, or subjected to physical intimidation or physical interference in the performance of duties as authorized by this Act or the Treaty;

(C) has not made full payment within 60 days of any amount due as a result of a final judgment or other final determination deriving from a violation in waters within the Treaty Area of a Pacific Island Party; or

(D) was not represented by an agent for service of process in accordance with the Treaty; or

(2) that there is probable cause to believe that the fishing vessel—

(A) was used in violation of section 5 (a)(4), (a)(5), (b)(2), or (b)(3) of this Act;

(B) used an aircraft in violation of section 5(b)(7); or

(C) was involved in an incident in which section 5(b)(7) was violated.

(b) Upon being advised by the Secretary of State that proper notification to Parties has been made under paragraph 7 of Article 5 of the Treaty that a Pacific Island Party is investigating an alleged infringement of the Treaty by a vessel in waters under the jurisdiction of such Pacific Island Party, the Secretary shall order the vessel to leave such waters until the Secretary of State notifies the Secretary that such order is no longer necessary.

102 STAT. 599

(c) The Secretary shall rescind any order issued on the basis of a finding under subsection (a)(1) (C) or (D) of this section as soon as the Secretary determines that the facts underlying the finding do not apply.

(d) No order issued in accordance with this section is subject to judicial review.

(e) Upon a request by the Secretary, the Attorney General shall commence a civil action for appropriate relief, including permanent or temporary injunction, to enforce any order issued by the Secretary under this section.

16 USC 973j.

SEC. 12. REPORTING.

(a) Holders of licenses shall comply with the reporting requirements of part 4 of Annex I to the Treaty.

(b) Information provided by license holders in Schedules 5 and 6 of Annex I of the Treaty shall be provided to the Secretary for transmittal to the Administrator and to an entity designated by the license holder. Such information thereafter shall not be released and shall be maintained as confidential by the Secretary, including information requested under the Freedom of Information Act, unless disclosure is required under court order or unless the information is essential for an enforcement action under section 5, 10(b), 10(c), or 11 of this Act, or any other proper law enforcement action.

Classified information.

16 USC 973k.

SEC. 13. CLOSED AREA STOWAGE REQUIREMENTS.

At all times while a vessel is in a Closed Area, the fishing gear of the vessel shall be stowed in such a manner as not to be readily available for fishing. In particular, the boom shall be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any, shall be tied down; and launches shall be secured.

16 USC 973*l*.

SEC. 14. OBSERVERS.

(a) The operator and each member of the crew of a vessel shall allow and assist any individual identified as an observer under the Treaty by the Pacific Island Parties—

(1) to board the vessel for scientific, compliance, monitoring and other functions at the point and time notified by the Pacific Island Parties to the Secretary;

(2) without interfering unduly with the lawful operation of the vessel, to have full access to and use of facilities and equipment on board the vessel which the observer may determine are necessary to carry out observer duties; have full access to the bridge, fish on board, and areas which may be used to hold, process, weigh, and store fish; remove samples; have full access to the vessel's records, including its log and documentation for the purpose of inspection and copying; and gather any other information relating to fisheries in the Licensing Area;

Records. Public information.

(3) to disembark at the point and time notified by the Pacific Island Parties to the Secretary; and

Safety.

(4) to carry out observer duties safely.

(b) The operator shall provide any such observer, while on board the vessel, at no expense to the Pacific Island Parties, with food, accommodation, and medical facilities of such reasonable standard as may be acceptable to the Pacific Island Party whose representative is serving as the observer.

102 STAT. 600

(c) The operator of any vessel from which any fish taken in the Licensing Area is unloaded shall allow, or arrange for, and assist any individual so authorized by the Pacific Island Parties to have full access to any place where such fish is unloaded, to remove samples, and to gather any other information relating to fisheries in the Licensing Area.

16 USC 973m.

SEC. 15. TECHNICAL ASSISTANCE.

Business and industry.

The United States tuna industry shall provide $250,000 annually in technical assistance, including provision of assistance by techni-

cians, in response to requests coordinated through the Administrator. The Secretary of State shall designate an entity to coordinate the provision of such technical assistance as provided by the United States tuna industry and to provide an annual report to the Secretary of State regarding the provision of such technical assistance. Reports.

SEC. 16. ARBITRATION. 16 USC 973n.

In the event of a dispute requiring the establishment of an arbitral tribunal under Article 6 of the Treaty, the Secretary of State, in consultation with the Secretary, shall appoint the arbitrator to be appointed by the United States under paragraph 3 of that Article, and shall represent the United States in reaching agreement under such paragraph with each Pacific Island Party involved concerning the appointment of the presiding arbitrator of the tribunal.

SEC. 17. DISPOSITION OF FEES, PENALTIES, FORFEITURES, AND OTHER MONEYS. 16 USC 973o.

To the extent required by Article 4 of the Treaty, an amount equivalent to the total value of any fine, penalty, or other amount collected as a result of any action, judicial or otherwise, taken pursuant to sections 7 and 8 of this Act shall be paid by the United States through the Secretary of State to the Administrator as soon as reasonably possible following the date that such amount is collected.

SEC. 18. ADDITIONAL AGREEMENTS. 16 USC 973p.

Within 30 days after the Secretary of State's receipt of notice from a Pacific Island Party that it has concluded an arrangement pursuant to paragraph 3 of Article 3 of the Treaty, the Secretary of State shall consult with the Secretary concerning whether the procedures of Article 4 and paragraph 6 of Article 5 of the Treaty should be made applicable to such arrangement. At the conclusion of the consultations the Pacific Island Party and all other persons agreeing to the arrangement shall be notified by the Secretary of State of the resulting decision.

SEC. 19. SECRETARY OF STATE TO ACT FOR THE UNITED STATES. 16 USC 973q.

The Secretary of State is authorized to receive on behalf of the United States reports, requests, and other communications from the Administrator and to act thereon directly or by reference to the appropriate authorities. The Secretary of State, after consultations with the Secretary, may accept or reject, on behalf of the United States, changes or amendments to Annex I of the Treaty and its Schedules and Annex II to the Treaty and its Schedules.

SEC. 20. AUTHORIZATION OF APPROPRIATIONS. 16 USC 973r.

(a) There are authorized to be appropriated for fiscal years 1988, 1989, 1990, 1991, and 1992 such sums as may be necessary for carrying out the purposes and provisions of the Treaty and this Act including—

(1) for fiscal years 1988, 1989, 1990, 1991, and 1992, an amount not to exceed $350,000 annually to the Department of Commerce for administrative expenses; and

(2) for fiscal years 1988, 1989, 1990, 1991, and 1992, an amount not to exceed $50,000 annually to the Department of State for administrative expenses.

(b) Funds appropriated for the purposes of the Treaty may be used notwithstanding any of the provisions of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or of any appropriations Act that imposes restrictions on the maintenance or use of cash transfer assistance, which are inconsistent with the provisions of the Treaty.

16 USC 973 note.

SEC. 21. EFFECTIVE DATE.

(a) Except as provided in subsection (b) of this section, this Act shall be effective on the date on which the Treaty enters into force for the United States.

(b)(1) The authority to promulgate regulations pursuant to this Act shall be effective on the date of enactment of this Act.

(2) Any regulation promulgated pursuant to this Act shall not be effective before the date on which the Treaty enters into force for the United States.

Approved June 7, 1988.

LEGISLATIVE HISTORY—S. 1989 (H.R. 3767):

HOUSE REPORTS: No. 100-645, Pt. 1, accompanying H.R. 3767 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 100-316 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 13, considered and passed Senate.
May 24, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
June 7, Presidential statement.

An Act

Aug. 23, 1988
[H.R. 4848]

To enhance the competitiveness of American industry, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Trade and Competitiveness Act of 1988.
Exports.
Imports.
International agreements.
19 USC 2901 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Trade and Competitiveness Act of 1988".

(b) TABLE OF CONTENTS.—

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Sec. 2. Legislative history of H.R. 3 applicable.

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SEC. 2. LEGISLATIVE HISTORY OF H.R. 3 APPLICABLE.

(a) IN GENERAL.—Except as provided in subsection (b), the legislative history of a title, subtitle, part, subpart, chapter, subchapter, section, or other provision of the conference report to accompany H.R. 3 of the 100th Congress (H. Rept. 100-576) shall be treated (along with any other legislative history developed by reason of this Act) as being the legislative history of the provision of this Act that has the same numerical or alphabetical designation as the provision of the conference report.

(b) EXCEPTIONS.—

(1) Subsection (a) does not apply to section 2424(a) of this Act.

(2) The legislative history for subtitle F of title VI of the conference report to accompany H.R. 3 shall be treated as the legislative history for subtitle E of title VI of this Act.

102 STAT. 1574

LEGISLATIVE HISTORY—H.R. 4848:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 13, considered and passed House.
Aug. 2, 3, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Aug. 23, Presidential remarks.

Public Law 100-519
100th Congress

102 STAT. 2589

An Act

To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1989, and for other purposes.

Oct. 24, 1988
[H.R. 4417]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY AUTHORIZATION

National Institute of Standards and Technology Authorization Act for Fiscal Year 1989.

SECTION 101. SHORT TITLE.

This title may be cited as the "National Institute of Standards and Technology Authorization Act for Fiscal Year 1989".

SEC. 102. AUTHORIZATIONS FOR PROGRAM ACTIVITIES.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce (hereafter in this Act referred to as the "Secretary"), for fiscal year 1989, to carry out activities performed by the National Institute of Standards and Technology, the sums set forth in the following line items:

(1) Measurement Research and Standards, $43,220,000.
(2) Materials Science and Engineering, $24,054,000.
(3) Engineering Measurements and Standards, $49,098,000.
(4) Computer Science and Technology, $11,000,000.
(5) Research Support Activities, $20,867,000.
(6) Cold Neutron Source Facility, $6,500,000 (for a total authorization of $19,500,000).
(7) Technology Services, $3,300,000.

(b) LIMITATIONS.—Notwithstanding any other provision of this or any other Act—

(1) of the total of the amounts authorized under subsection (a), $2,000,000 is authorized only for steel technology;

(2) of the total amount authorized under paragraph (3) of subsection (a)—

(A) $4,000,000 is authorized only for the Center for Building Technology, and

(B) $6,000,000 is authorized only for the Center for Fire Research,

and the two Centers shall not be merged;

(3) of the total amount authorized under paragraph (5) of subsection (a), $7,500,000 is authorized only for the technical competence fund; and

(4) of the amount authorized under paragraph (7) of subsection (a)— 102 STAT. 2590

(A) $3,000,000 is authorized only for the support of Regional Centers for the Transfer of Manufacturing Technology, and Assistance to State Technology Programs;

(B) $300,000 is authorized only for the evaluation of non-energy-related inventions and related technology extension activities; and

(C) funds authorized under subparagraph (A) shall be used only to award, amend, or renew research cooperative agreements entered into pursuant to the competitive process established by the National Bureau of Standards for this program (53 Fed. Reg. 27060; July 18, 1988).

(c) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (a), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) In addition, the Secretary may propose transfers to or from any line item exceeding 10 percent of the amount authorized for the line item in subsection (a); but such proposed transfer may not be made—

(A) unless a full and complete explanation of any such proposed transfer and the reason therefore are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate, and

(B) 30 calendar days have passed following the transmission of such written explanation.

15 USC 278k note.

(d) PUBLICATION IN FEDERAL REGISTER.—The requirement of section 25(c)(2) of the Act of March 3, 1901, shall be considered to have been met by the publication made by the National Bureau of Standards on July 18, 1988 (53 Fed. Reg. 27060).

SEC. 103. UNDER SECRETARY FOR TECHNOLOGY.

In addition to any sums otherwise authorized by this title, there are authorized to be appropriated to the Secretary for fiscal year 1989—

(1) $1,000,000 for the activities of the Office of the Under Secretary of Commerce for Technology, as established in section 201(a); and

(2) $2,000,000 for the activities of the Office of Technology Policy, as established in such section.

SEC. 104. JAPANESE TECHNICAL LITERATURE.

In addition to any sums otherwise authorized by this title, there is authorized to be appropriated to the Secretary for fiscal year 1989 the sum of $1,000,000 to carry out the purposes of the Japanese Technical Literature Act of 1986 (Public Law 99-382; 100 Stat. 811).

SEC. 105. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized by this title, there are authorized to be appropriated to the Secretary for fiscal year 1989 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 106. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this title shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

SEC. 107. RESEARCH INFORMATION CENTER.

The Research Information Center of the National Bureau of Standards shall be maintained as a governmental activity under the National Institute of Standards and Technology.

SEC. 108. EVALUATED ENGINEERING DATA STUDY.

Reports.

Within 6 months after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall conduct a study of needs within the private and public sectors for evaluated engineering data, and shall submit a report to the Congress making recommendations concerning the appropriate roles of the National Institute of Standards and Technology, other government agencies, professional societies, and trade associations in the collection, evaluation, and dissemination of such data. Such recommendations shall, among other things, address plans for the dissemination of the results of the study through data bases, and plans for incorporating high quality results from other countries.

SEC. 109. TECHNOLOGY SERVICES.

Small business.
State and local governments.
15 USC 272a.

In addition to such other technology services and technology extension activities which may be mandated or authorized by law, and in order to help improve the use of technology by small and medium-sized industrial firms within the United States, the Director of the National Institute of Standards and Technology, as appropriate, shall—

(1) work directly with States, local governments, and other appropriate organizations to provide for extended distribution of Standard Reference Materials, Standard Reference Data, calibrations, and related technical services and to help transfer other expertise and technology to the States and to small businesses and other businesses within the States;

(2) evaluate those inventions from small businesses or individuals which have a significant potential for improving competitiveness;

(3) provide support for workshops on technical and entrepreneurial topics and share information developed through the Malcolm Baldrige Quality Award Program; and

(4) work with other Federal agencies to provide technical and related assistance to the States and businesses within the States.

SEC. 110. TECHNOLOGY TRANSFER.

Reports.

Within 6 months after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on domestic technology transfer accomplishments, trends, and plans since 1986 at the National Bureau of Standards and the National Institute of Standards and Technology. Such report shall describe with examples the types of technology transfer undertaken by the National Bureau of Standards or the National Institute of Standards and Technology, the amount of funds devoted to these efforts, and patent and licensing activities related to the National Bureau of Standards and the National Institute of Standards and Technology research results. The report shall describe the division of technology transfer activities between the Gaithersburg, Maryland, and Boulder, Colorado, sites of the National Institute of Standards and Technology. The merits of establishing a technology transfer office in Boulder or of giving the Boulder laboratories increased technology transfer responsibilities shall also be considered.

102 STAT. 2592

15 USC 272b.

SEC. 111. ANNUAL BUDGET SUBMISSION.

The National Institute of Standards and Technology shall annually submit to the Congress, at the time of the release of the President's budget, a three year budget estimate for the Institute, including funding estimates for each major account and new initiative.

15 USC 272 note.

SEC. 112. INTERNATIONAL STANDARDS.

(a) PROGRAM.—The Secretary, acting through the Director of the National Institute of Standards and Technology and other appropriate officials, shall seek funding for and establish, within 6 months after the date of the enactment of this Act, a program to assist other countries in the development of their domestic standards which are compatible with standards in general use in the United States. After the program is established, it shall be funded through voluntary contributions from the private sector to fully reimburse the United States for expenses incurred during fiscal years 1989 and 1990. The program shall begin on a pilot basis focusing on one or two countries or groups of countries which are major United States trading partners and have expressed interest in such program. The Secretary shall ensure that contributions which are earmarked by country are spent to assist the development of standards by that country or group of countries.

Gifts and property.

(b) LONG-TERM PLAN.—No later than June 30, 1989, the Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a long-term plan for assistance under this section for each nation or group of nations which annually has imports of at least $1,000,000,000 from the United States (or has the potential for being a major importer from the United States) and which desires such assistance. The plan shall include a description of the resources needed to provide such assistance, the appropriate and likely sources of such funds, and the appropriate relationship between the program established under this section and private sector standards organizations. Special consideration is to be given to the feasibility of establishing a data base and other methods for making standards information developed in cooperation with one country available to other countries.

TITLE II—TECHNOLOGY ADMINISTRATION IN THE DEPARTMENT OF COMMERCE

102 STAT. 2593

Subtitle A—Technology Administration

SEC. 201. TECHNOLOGY ADMINISTRATION.

(a) ESTABLISHMENT.—Section 5(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(a)) is amended to read as follows:

"(a) ESTABLISHMENT.—There is established in the Department of Commerce a Technology Administration, which shall operate in accordance with the provisions, findings, and purposes of this Act. The Technology Administration shall include—

"(1) the National Institute of Standards and Technology;

"(2) the National Technical Information Service; and

"(3) a policy analysis office, which shall be known as the Office of Technology Policy.".

(b) UNDER SECRETARY AND ASSISTANT SECRETARY.—Section 5(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(b)) is amended to read as follows:

"(b) UNDER SECRETARY AND ASSISTANT SECRETARY.—The President shall appoint, by and with the advice and consent of the Senate, to the extent provided for in appropriations Acts— President of U.S.

"(1) an Under Secretary of Commerce for Technology, who shall be compensated at the rate provided for level III of the Executive Schedule in section 5314 of title 5, United States Code; and

"(2) an Assistant Secretary of Commerce for Technology Policy, who shall serve as policy analyst for the Under Secretary.".

(c) DUTIES.—Section 5(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(c)) is amended—

(1) by redesignating paragraphs (1) through (10) as paragraphs (5) through (14), respectively;

(2) by striking "Assistant Secretary, on a continuing basis, shall—" and inserting in lieu thereof "Under Secretary, as appropriate, shall—

"(1) manage the Technology Administration and supervise its agencies, programs, and activities;

"(2) conduct technology policy analyses to improve United States industrial productivity, technology, and innovation, and cooperate with United States industry in the improvement of its productivity, technology, and ability to compete successfully in world markets;

"(3) carry out any functions formerly assigned to the Office of Productivity, Technology, and Innovation;

"(4) assist in the implementation of the Metric Conversion Act of 1975;"; and

(3) in paragraph (10), as redesignated by paragraph (1) of this subsection, by striking "Assistant Secretary" and inserting in lieu thereof "Under Secretary".

102 STAT. 2594

(d) CONFORMING AMENDMENTS.—(1) Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended—

(A) in paragraph (1), by striking "Productivity, Technology, and Innovation" and inserting in lieu thereof "Technology Policy"; and

(B) by amending paragraph (3) to read as follows:

"(3) 'Under Secretary' means the Under Secretary of Commerce for Technology appointed under section 5(b)(1).".

(2) Section 5(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(d)(1)) is amended by striking "shall establish and, through the National Technical Information Service and" and inserting in lieu thereof "and the Under Secretary shall establish, and through the National Technical Information Service and with the cooperation of".

(3) Section 11(g)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(g)(1)) is amended by inserting "through the Under Secretary, and" after "Secretary,".

(4) Section 5314 of title 5, United States Code, is amended by adding at the end the following item:

"Under Secretary of Commerce for Technology.".

15 USC 3704 note.

(e) TRANSITION.—The individual serving as the Assistant Secretary of Commerce for Productivity, Technology, and Innovation immediately before the date of enactment of this Act shall serve as Acting Assistant Secretary of Commerce for Technology Policy until the Assistant Secretary takes office.

National Technical Information Act of 1988.

Subtitle B—National Technical Information Service

15 USC 3701 note.

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "National Technical Information Act of 1988".

15 USC 3704b.

SEC. 212. NATIONAL TECHNICAL INFORMATION SERVICE.

(a) POWERS.—(1) The Secretary of Commerce, acting through the Director of the National Technical Information Service (hereafter in this subtitle referred to as the "Director") is authorized to do the following:

Contracts.

(A) Enter into such contracts, cooperative agreements, joint ventures, and other transactions, in accordance with all relevant provisions of Federal law applicable to such contracts and agreements, and under reasonable terms and conditions, as may be necessary in the conduct of the business of the National Technical Information Service (hereafter in this subtitle referred to as the "Service").

(B) In addition to the authority regarding fees contained in section 2 of the Act entitled "An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes" enacted September 9, 1950 (15 U.S.C. 1152), retain and, subject to appropriations Acts, utilize its net revenues to the extent necessary to implement the plan submitted under subsection (f)(3)(D).

102 STAT. 2595

Contracts.

(C) Enter into contracts for the performance of part or all of the functions performed by the Promotion Division of the Service prior to the date of the enactment of this Act. The details of any such contract, and a statement of its effect on the operations and personnel of the Service, shall be provided to the appropriate committees of the Congress 30 days in advance of the execution of such contract.

(D) Employ such personnel as may be necessary to conduct the business of the Service.

An increase or decrease in the personnel of the Service shall not affect or be affected by any ceilings on the number or grade of personnel.

(2) The functions and activities of the Service specified in subsection (e) (1) through (6) are permanent Federal functions to be carried out by the Secretary through the Service and its employees, and shall not be transferred from the Service, by contract or otherwise, to the private sector on a permanent or temporary basis without express approval of the Congress. Functions or activities—

(A) for the procurement of supplies, materials, and equipment by the Service;

(B) referred to in paragraph (1)(C); or

(C) to be performed through joint ventures or cooperative agreements which do not result in a reduction in the Federal workforce of the affected programs of the service,

shall not be considered functions or activities for purposes of this paragraph.

(3) For the purposes of this subsection, the term "net revenues" means the excess of revenues and receipts from any source, other than royalties and other income described in section 13(a)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(4)), over operating expenses.

(4) Section 11(h) of the Stevenson-Wydler Technology Innovation Act of 1980 is repealed. 15 USC 3710.

(b) DIRECTOR OF THE SERVICE.—The management of the Service shall be vested in a Director who shall report to the Under Secretary of Commerce for Technology and the Secretary of Commerce.

(c) ADVISORY BOARD.—(1) There is established the Advisory Board of the National Technical Information Service, which shall be composed of a chairman and four other members appointed by the Secretary. Establishment.

(2) In appointing members of the Advisory Board the Secretary shall solicit recommendations from the major users and beneficiaries of the Service's activities and shall select individuals experienced in providing or utilizing technical information.

(3) The Advisory Board shall review the general policies and operations of the Service, including policies in connection with fees and charges for its services, and shall advise the Secretary and the Director with respect thereto.

(4) The Advisory Board shall meet at the call of the Secretary, but not less often than once each six months.

(d) AUDITS.—The Secretary of Commerce shall provide for annual independent audits of the Service's financial statements beginning with fiscal year 1988, to be conducted in accordance with generally accepted accounting principles.

(e) FUNCTIONS.—The Secretary of Commerce, acting through the Service, shall— 102 STAT. 2596

(1) establish and maintain a permanent repository of nonclassified scientific, technical, and engineering information; Records. Public information.

(2) cooperate and coordinate its operations with other Government scientific, technical, and engineering information programs;

(3) make selected bibliographic information products available in a timely manner to depository libraries as part of the Depository Library Program of the Government Printing Office; Libraries.

(4) in conjunction with the private sector as appropriate, collect, translate into English, and disseminate unclassified foreign scientific, technical, and engineering information;

(5) implement new methods or media for the dissemination of scientific, technical, and engineering information; and

(6) carry out the functions and activities of the Secretary under the Act entitled "An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes" enacted September 9, 1950, and the functions and activities of the Secretary performed through the National Technical Information Service as of the date of enactment of this Act under the Stevenson-Wydler Technology Innovation Act of 1980.

(f) NOTIFICATION OF CONGRESS.—(1) The Secretary of Commerce and the Director shall keep the appropriate committees of Congress fully and currently informed about all activities related to the carrying out of the functions of the Service, including changes in fee policies.

(2) Within 90 days after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Congress a report on the current fee structure of the Service, including an explanation of the Reports.

basis for the fees, taking into consideration all applicable costs, and the adequacy of the fees, along with reasons for the declining sales at the Service of scientific, technical, and engineering publications. Such report shall explain any actions planned or taken to increase such sales at reasonable fees.

Reports.

(3) The Secretary shall submit an annual report to the Congress which shall—

(A) summarize the operations of the Service during the preceding year, including financial details and staff levels broken down by major activities;

(B) detail the operating plan of the Service, including specific expense and staff needs, for the upcoming year;

(C) set forth details of modernization progress made in the preceding year;

(D) describe the long-term modernization plans of the Service; and

(E) include the results of the most recent annual audit carried out under subsection (d).

(4) The Secretary shall also give the Congress detailed advance notice of not less than 30 calendar days of—

(A) any proposed reduction-in-force;

(B) any joint venture or cooperative agreement which involves a financial incentive to the joint venturer or contractor; and

(C) any change in the operating plan submitted under paragraph (3)(B) which would result in a variation from such plan with respect to expense levels of more than 10 percent.

102 STAT. 2597

TITLE III—MISCELLANEOUS AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

Patents and trademarks.

SEC. 301. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended—

(1) in subsection (a)(2), by striking "at the laboratory and other inventions" and inserting in lieu thereof "or other intellectual property developed at the laboratory and other inventions or other intellectual property"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraphs (2) and (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) determine rights in other intellectual property developed under an agreement entered into under subsection (a)(1); and".

SEC. 302. REWARDS.

Section 13(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710b(1)) is amended by inserting "computer software," after "inventions, innovations,".

SEC. 303. DISTRIBUTION OF ROYALTIES.

(a) Section 14(a)(1)(A) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(A)) is amended—

(1) in clause (i), by striking "was an employee of the agency at the time the invention was made" and inserting in lieu thereof "has assigned his or her rights in the invention to the United States"; and

(2) in clause (ii), by striking "who were employed by the agency at the time the invention was made and whose names appear on licensed inventions" and inserting in lieu thereof "under clause (i)".

Effective date. 15 USC 3710c note.

(b) This section shall be effective as of October 20, 1986.

TITLE IV—DRUG-FREE WORKPLACE

SEC. 401. DRUG-FREE WORKPLACE.

(a) No department, agency, or instrumentality of the United States receiving funds authorized to be appropriated under this Act for fiscal year 1989 or under any other Act authorizing appropriations for fiscal year 1989 for the National Institute of Standards and Technology (hereafter in this section referred to as the "Institute"), shall obligate or expend any such funds, unless the Institute has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of the Institute.

(b) No funds so authorized to be appropriated to the Institute for fiscal year 1989 shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the Director of the Institute, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

102 STAT. 2598

Approved October 24, 1988.

LEGISLATIVE HISTORY—H.R. 4417 (S. 2701):

HOUSE REPORTS: No. 100-673, Pt. 1 (Comm. on Science, Space, and Technology) and Pt. 2 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-476 accompanying S. 2701 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 100-533
100th Congress

102 STAT. 2689

An Act

To amend the Small Business Act to establish programs and initiate efforts to assist the development of small business concerns owned and controlled by women, and for other purposes.

Oct. 25, 1988
[H.R. 5050]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act, together with the following table of contents, may be cited as the "Women's Business Ownership Act of 1988".

Women's Business Ownership Act of 1988.
15 USC 631 note.

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TITLE I—CONGRESSIONAL FINDINGS AND PURPOSES

SEC. 101. FINDINGS AND PURPOSES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end thereof the following new subsection:

"(h)(1) With respect to the programs and activities authorized by this Act, the Congress finds that—

"(A) women owned business has become a major contributor to the American economy by providing goods and services, revenues, and jobs;

"(B) over the past two decades there have been substantial gains in the social and economic status of women as they have sought economic equality and independence;

102 STAT. 2690

"(C) despite such progress, women, as a group, are subjected to discrimination in entrepreneurial endeavors due to their gender;

"(D) such discrimination takes many overt and subtle forms adversely impacting the ability to raise or secure capital, to acquire managerial talents, and to capture market opportunities;

"(E) it is in the national interest to expeditiously remove discriminatory barriers to the creation and development of small business concerns owned and controlled by women;

"(F) the removal of such barriers is essential to provide a fair opportunity for full participation in the free enterprise system by women and to further increase the economic vitality of the Nation;

"(G) increased numbers of small business concerns owned and controlled by women will directly benefit the United States Government by expanding the potential number of suppliers of goods and services to the Government; and

"(H) programs and activities designed to assist small business concerns owned and controlled by women must be implemented in such a way as to remove such discriminatory barriers while not adversely affecting the rights of socially and economically disadvantaged individuals.

Discrimination, prohibition.

"(2) It is, therefore, the purpose of those programs and activities conducted under the authority of this Act that assist women entrepreneurs to—

"(A) vigorously promote the legitimate interests of small business concerns owned and controlled by women;

"(B) remove, insofar as possible, the discriminatory barriers that are encountered by women in accessing capital and other factors of production; and

"(C) require that the Government engage in a systematic and sustained effort to identify, define and analyze those discriminatory barriers facing women and that such effort directly involve the participation of women business owners in the public/private sector partnership.".

TITLE II—DEMONSTRATION PROJECTS

SEC. 201. ESTABLISHMENT.

Subsection (c) of section 8 of the Small Business Act (15 U.S.C. 637(c)) is amended to read as follows:

"(c)(1) Subject to the requirements of paragraph (2), the Administration shall provide financial assistance to private organizations to conduct demonstration projects for the benefit of small business concerns owned and controlled by women.

"(2) No amount of financial assistance shall be provided pursuant to this subsection unless the recipient organization agrees, as a condition of receiving such assistance, that—

"(A) it will obtain, after its application has been approved but prior to the disbursement of funds pursuant to this subsection, cash contributions from private sector sources in an amount at least equal to the amount of funds such organization will receive under this subsection; and

"(B) it will provide the types of services and assistance to present and potential women owners of small business concerns as are described in paragraph (3). For the purposes of this subsection such concerns may be either 'start-up' businesses or established 'on-going' concerns.

102 STAT. 2691

"(3) The types of services and assistance referred to in paragraph (2)(B) shall include the following:

"(A) Financial assistance, which assistance shall include training and counseling in how to apply for and secure business credit and investment capital; prepare and present financial statements; manage cash-flow and otherwise manage the financial operations of a business concern.

"(B) Management assistance, which assistance shall include training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

"(C) Marketing assistance, which assistance shall include training and counseling in how to identify and segment domestic and international market opportunities; prepare and execute marketing plans; develop pricing strategies; locate contract opportunities; negotiate contracts; and utilize varying public relations and advertising techniques.

"(4) Applications for financial assistance pursuant to this subsection shall be evaluated and ranked in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. Such criteria shall include— Public information.

"(A) a criterion that specifically refers to the experience of the offering organization in conducting programs or on-going efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(B) a criterion that specifically refers to the present ability of the offering organization to commence a demonstration project within a minimum amount of time; and

"(C) a criterion that specifically refers to the ability of the applicant organization to provide training and services to a representative number of women who are both socially and economically disadvantaged.

"(5) The financial assistance authorized pursuant to this subsection shall be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. Grants. Contracts.

"(6)(A) The Administration shall prepare and transmit a report to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all demonstration projects Reports.

conducted under the authority of this subsection. Such report shall provide information concerning—

"(i) the number of individuals receiving assistance;

"(ii) the number of start-up business concerns formed;

"(iii) the gross receipts of assisted concerns;

"(iv) increases or decreases in profits of assisted concerns; and

"(v) the employment increases or decreases of assisted concerns.

"(B) The report required pursuant to subparagraph (A) shall cover at least a twenty-four-month period and shall be submitted not later than thirty months after the effective date of this paragraph.

102 STAT. 2692

Termination date.

"(7) This subsection shall cease to be effective after September 30, 1991.".

SEC. 202. TECHNICAL.

Subsection (b) of section 8 of the Small Business Act (15 U.S.C. 637(b)) is amended by—

(1) striking out "and" at the end of paragraph (14);

(2) striking out "public." at the end of paragraph (15) and inserting in lieu thereof "public; and"; and

(3) by adding the following new paragraph:

"(16) to make studies of matters materially affecting the competitive strength of small business, and of the effect on small business of Federal laws, programs, and regulations, and to make recommendations to the appropriate Federal agency or agencies for the adjustment of such programs and regulations to the needs of small business.".

15 USC 637 note.

SEC. 203. AUTHORIZATION.

There is authorized to be appropriated $10,000,000 to carry out the demonstration projects required pursuant to section 201. The initial projects authorized to be financed by this title shall be funded by January 31, 1989. Notwithstanding any other provision of law, the Small Business Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this section, except that it shall ensure that all eligible sources are provided a reasonable opportunity to submit proposals.

15 USC 637 note.

SEC. 204. DEFINITION.

For the purposes of this title, the term "small business concern owned and controlled by women" means any small business concern—

(1) that is at least 51 per centum owned by one or more women; and

(2) whose management and daily business operations are controlled by one or more of such women.

TITLE III—ACCESS TO CAPITAL

SEC. 301. AMENDMENTS TO THE CONSUMER CREDIT PROTECTION ACT.

Subsection (a) of section 703 of the Consumer Credit Protection Act (15 U.S.C. 1691b(a)) is amended to read as follows:

Regulations.

"(a)(1) The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith.

"(2) Such regulations may exempt from the provisions of this title any class of transactions that are not primarily for personal, family, or household purposes, or business or commercial loans made available by a financial institution, except that a particular type within a class of such transactions may be exempted if the Board determines, after making an express finding that the application of this title or of any provision of this title of such transaction would not contribute substantially to effecting the purposes of this title.

"(3) An exemption granted pursuant to paragraph (2) shall be for no longer than five years and shall be extended only if the Board makes a subsequent determination, in the manner described by such paragraph, that such exemption remains appropriate. 102 STAT. 2693

"(4) Pursuant to Board regulations, entities making business or commercial loans shall maintain such records or other data relating to such loans as may be necessary to evidence compliance with this subsection or enforce any action pursuant to the authority of this Act. In no event shall such records or data be maintained for a period of less than one year. The Board shall promulgate regulations to implement this paragraph in the manner prescribed by chapter 5 of title 5, United States Code. Loans. Records. Regulations.

"(5) The Board shall provide in regulations that an applicant for a business or commercial loan shall be provided a written notice of such applicant's right to receive a written statement of the reasons for the denial of such loan.". Loans.

SEC. 302. FORM SIMPLIFICATION AND PREFERRED FINANCING.

(a) CERTIFIED LOAN PROGRAM.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding to subsection (a) the following new paragraph:

"(19) During fiscal years 1989, 1990, and 1991, in addition to the preferred lenders program authorized by the proviso in section 5(b)(7), the Administration is authorized to establish a certified loan program for lenders who establish their knowledge of Administration laws and regulations concerning the loan guarantees program and their proficiency in program requirements. In order to encourage certified lenders and preferred lenders to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, the Administration (A) shall develop and shall allow participating lenders in the certified loan program and in the preferred loan program to solely utilize a uniform and simplified loan form for such loans and (B) shall allow such lenders to retain one-half of the fee collected pursuant to section 7(a)(16) on such loans: *Provided*, That a participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless such excess amount was not approved under the provisions of this paragraph. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or if the Administration determines that the loss experience of the lender is excessive as compared to other lenders: *Provided further*, That any suspension or revocation of the designation shall not affect any outstanding guarantee: *And provided further*, That the Administration may not reduce the per centum of guarantee as a criterion of eligibility for participation in this program, except as otherwise provided by law.".

(b) REPORTS.—The Administration shall take appropriate steps to expand participation in the certified loan program and shall report to the Small Business Committees of the Senate and the House of Representatives on the amount of loans approved and the amount of losses sustained under the provisions of section 7(a)(19) of the Small Business Act. An interim report shall be submitted not later than one year after date of enactment of this Act and a final report shall be submitted not later than eighteen months after the date of enactment. 15 USC 636 note. 102 STAT. 2694

TITLE IV—NATIONAL WOMEN'S BUSINESS COUNCIL

15 USC 631 note.

SEC. 401. ESTABLISHMENT.

There is established a Council to be known as the "National Women's Business Council" (hereinafter in this title referred to as the Council).

SEC. 402. DUTIES OF THE COUNCIL.

(a) The Council shall review—

(1) the status of women owned business nationwide, including progress made and barriers that remain in order to assist such businesses to enter the mainstream of the American economy;

(2) the role of the Federal Government and State and local governments in assisting and promoting aid to, and the promotion of, women owned business;

(3) data collection procedures and the availability of data relating to (A) women owned businesses; (B) women owned small business, and (C) small business owned and controlled by socially and economically disadvantaged women; and

(4) such other government initiatives as may exist relating to women owned business including, but not limited to, those relating to Federal procurements.

(b) Based upon its review, the Council shall, by December 31, 1989, and every twelve months thereafter, recommend to the Congress and the President—

(1) new private sector initiatives that would provide management and technical assistance to women owned small business;

(2) ways to promote greater access to public and private sector financing and procurement opportunities for such businesses; and

(3) detailed multiyear plans of action, with specific goals and timetables, for both public and private sector actions needed to overcome discriminatory barriers to full participation in the economic mainstream.

(c) For the purposes of this title the term "small business concern owned and controlled by women" shall have the same meaning as that term is given in section 204 of this Act.

SEC. 403. MEMBERSHIP.

(a) The Council shall be composed of nine members to be selected as follows:

(1) the Administrator of the Small Business Administration, the Secretary of Commerce (or such Secretary's deputy) and the Chairman of the Federal Reserve Board (or such Chairman's designee, who shall be a member of the Board);

(2) two members shall be appointed by the majority leader, and one member shall be appointed by the minority leader of the Senate; and

(3) two members shall be appointed by the Speaker, and one member shall be appointed by the minority leader of the House of Representatives.

(b)(1) Appointments under section (a) (2) and (3) shall be made from individuals who are specially qualified to serve on the Council
102 STAT. 2695 by virtue of their education, training, and experience and who are not officers or employees of the Federal Government nor of the Congress.

(2)(A) Of the individuals to be appointed under subsection (a) (2) and (3)—

(i) no more than two members to be appointed under each such paragraph of such subsection shall be of the same political party;

(ii) at least two members appointed under each such paragraph of such subsection shall be women; and

(iii) at least two members to be appointed under each such paragraph of such subsection shall be owners of small business concerns as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(B) Appointments made pursuant to subsection (a) (2) and (3) shall be made in the following sequence—

(i) appointments under (a)(2) shall be made within ninety days of the effective date of this title; and

(ii) appointments under (a)(3) shall be made within one hundred and twenty days of the effective date of this title.

(3) In making appointments under subsection (a), the appointing authorities shall give due consideration to achieving balanced geographical representation.

(C) Members appointed under subsection (a) (2) and (3) shall be appointed for a three-year term, except if any such appointee becomes an officer or employee of the Federal Government or of the Congress, such individual may continue as a member of the Council for not longer than the thirty-day period beginning on the date such individual becomes such an officer or employee.

(D) A vacancy on the Council shall be filled in the manner in which the original appointment was made.

(E) Members of the Council shall serve without pay for such membership, except members of the Council shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Council, in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

(F)(1) Two members of the Council shall constitute a quorum for the receipt of testimony and other evidence.

(2) A majority of the Council shall constitute a quorum for the approval of a recommendation or report submitted pursuant to section 402 or section 406.

(G) The Chairperson and Vice Chairperson of the Council shall be designated by the President. The term of office of the Chairperson and Vice Chairperson shall be at the discretion of the President. President of U.S.

(H) The Council shall meet not less than four times a year. Meetings shall be at the call of the Chairperson.

SEC. 404. DIRECTOR AND STAFF OF THE COUNCIL.

(a)(1) The Council shall have a Director who shall be appointed by the Chairperson. Upon recommendation by the Director, the Chairperson may appoint and fix the pay of four additional personnel.

(2) The Director and staff of the Council may be appointed without regard to section 5311(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title 102 STAT. 2696 relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(b) The Council may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(c) Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this title without regard to section 3341 of title 5 of the United States Code.

SEC. 405. POWERS OF THE COUNCIL.

(a) The Council may, for the purpose of carrying out this title sit and act at such times and places, hold such hearings, take such testimony, receive such evidence, and consider such information, as the Council considers appropriate. The Council may administer oaths or affirmations for the receipt of such testimony.

(b) Any member or person within the employ of the Council may, if so authorized by the Council, take any action which the Council is authorized to take by this section.

(c) Except as otherwise prohibited by law, the Council may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this Act. Upon the request of the Chairperson of the Council, the head of

such department or agency shall promptly furnish such information to the Council.

Mail.

(d) The Council may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(e) The Administrator of the General Services Administration shall provide to the Council, on a reimbursable basis, such administrative support services as the Council may request. In addition, the Administrator shall, as appropriate, provide to the Council, upon its request, access to and use of such Federal facilities as may be necessary for the conduct of its business.

SEC. 406. REPORTS.

The Council shall transmit to the President and to each House of the Congress a report no less than once in every twelve-month period. The first such report shall be submitted no later than December 31, 1989. Such reports shall contain a detailed statement on the activities of the Council, and the findings and conclusions of the Council, together with its recommendations for such legislation and administrative actions as it considers appropriate based upon its reviews conducted under section 402.

SEC. 407. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out this title and they may remain available until

Contracts.

expended. New spending authority or authority to enter into contracts as authorized in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriation

Termination date.

Acts. This title shall cease to be effective five years after the date of enactment.

102 STAT. 2697

TITLE V—STATISTICAL DATA AND EFFECT ON OTHER PROGRAMS

13 USC 131 note.

SEC. 501. CENSUS DATA.

(a) BUREAU OF LABOR STATISTICS.—The Bureau of Labor Statistics of the Department of Labor shall include in any census report it may prepare on women owned business data on—

(1) sole proprietorships;

(2) partnerships; and

(3) corporations.

(b) BUREAU OF THE CENSUS.—The Bureau of the Census of the Department of Commerce shall include in its Business Census for 1992 and each such succeeding census data on the number of corporations which are 51 per centum or more owned by women.

Reports.

(c) COMBINED STUDY.—Not later than one hundred and eighty days after the effective date of this section, the Office of the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to in this subsection as the "Office") shall conduct a study and prepare a report recommending the most cost effective and accurate means to gather and present the data required to be collected pursuant to subsections (a) and (b). The Department of Commerce and the Department of Labor shall provide the Office such assistance and cooperation as may be necessary and appropriate to achieve the purposes of this subsection.

41 USC 4717a.

SEC. 502. PROCUREMENT DATA.

(a) REPORTING.—Each Federal agency shall report to the Office of Federal Procurement Policy the number of small businesses owned and controlled by women and the number of small business concerns owned and controlled by socially and economically disadvantaged businesses, by gender, that are first time recipients of contracts from such agency. The Office of Federal Procurement Policy shall take such actions as may be appropriate to ascertain for each fiscal year the number of such small businesses that have newly entered the Federal market.

(b) DEFINITIONS.—For purposes of this section the terms "small business concern owned and controlled by women" and "small business concerns owned and controlled by socially and economically disadvantaged individuals" shall be given the same meaning as those terms are given under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and section 204 of this Act.

SEC. 503. STATE OF SMALL BUSINESS REPORT.

Section 303 of Public Law 96-302 (15 U.S.C. 631(b)) is amended by adding the following new subsection: 15 USC 631b.

"(e) The information and data required to be reported pursuant to subsection (a) shall separately detail those portions of such information and data that are relevant to—

"(1) small business concerns owned and controlled by socially and economically disadvantaged individuals, by gender, as defined pursuant to section 8(d) of the Small Business Act; and

"(2) small business concerns owned and controlled by women.".

102 STAT. 2698

SEC. 504. DISADVANTAGED SMALL BUSINESSES. 15 USC 631 note.

Nothing contained in this Act is intended to reduce or limit any programs, benefit, or activity that is authorized by law to assist small business concerns owned and controlled by socially and economically disadvantaged individuals as defined pursuant to section 8(d)(3) of the Small Business Act (15 U.S.C. 637(d)(3)).

Approved October 25, 1988.

LEGISLATIVE HISTORY—H.R. 5050:

HOUSE REPORTS: No. 100-955 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, considered and passed House.
Oct. 11, considered and passed Senate, amended.
Oct. 12, House concurred in Senate amendment.

Public Law 100-536
100th Congress

102 STAT. 2710

An Act

To authorize appropriations to carry out title I of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, and 1991.

Oct. 28, 1988
[H.R. 4209]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 111. There are authorized to be appropriated, for purposes of carrying out this title, not to exceed $12,000,000 for each of fiscal years 1989, 1990, and 1991.".

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 4209 (S. 2761):

SENATE REPORTS: No. 100-595 accompanying S. 2761 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 14, considered and passed Senate.

102 STAT. 2970 Public Law 100-584
100th Congress

An Act

Nov. 3, 1988
[H.R. 2472]

To provide authorization of appropriations for activities of the National Telecommunications and Information Administration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there are authorized to be appropriated for activities of the National Telecommunications and Information Administration $14,718,000 for fiscal year 1988 and $15,000,000 for fiscal year 1989, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1988 and 1989.

Minorities.
Women.

SEC. 2. (a) The Administrator of the National Telecommunications and Information Administration (hereinafter referred to as the "Administrator") shall establish semiannual goals for recruiting and hiring minority members and women to the staff of the Administration. Such goals shall be published in the Federal Register not later than thirty days after the date of enactment of this Act.

Federal Register, publication.

Reports.

(b) The Administrator shall, not later than September 30, 1988, March 31, 1989, and September 30, 1989, submit a report on the success of the Administration in achieving the goals established under subsection (a) of this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

Grants.
47 USC 390 note.

SEC. 3. The Administrator shall enter into discussions with the Federal Communications Commission for the purposes of determining the feasibility of awarding public telecommunications facilities program grants for low-power television stations and television translator stations on a conditional basis pending the award by the Commission of licenses for such stations. The Administrator shall also work with the Commission to establish a schedule for the expedited and coordinated consideration, on a regular basis, of future grant requests and license applications for low-power television stations and television translator stations. The Administrator shall, within ninety days after the date of enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the progress made in carrying out the requirements of this section.

Reports.

SEC. 4. (a) The Congress finds that—

(1) the Pacific Ocean region is of strategic importance to the United States, and other nations are seeking to establish their influence in this region;

(2) the Pacific Basin communities are important economically to the United States, and have sought a close relationship with the United States;

102 STAT. 2971

(3) because the Pacific Basin communities are geographically isolated and because many of such communities are relatively poor, they are in great need of quality, low cost communications services to maintain contact among themselves and with other countries; and

(4) since August 1985, the Pacific Basin communities have been without a vital communications service because the ATS-1 satellite of the National Aeronautics and Space Administration ceased operation.

Community development.

(b) It is the purpose of this section to assist in the acquisition of satellite communications services until commercially viable alternatives are available and to provide initial funding in order that the Pan-Pacific Educational and Cultural Experiments by Satellite Pro-

gram again serves the educational, medical, and cultural needs of the Pacific Basin communities.

(c)(1) The Secretary of Commerce shall expeditiously negotiate and acquire satellite space segment capacity for communications services for the Pacific Ocean region for former users of the ATS-1 satellite of the National Aeronautics and Space Administration.

(2)(A) Such satellite space segment capacity may, for a period of three years from the time it is acquired, operate in those portions of the UHF frequency band (225-400 Megahertz) assigned to the Department of the Navy, unless the President finds that the use of such spectrum solely by the Department of Defense is essential to the national security of the United States. Defense and national security.

(B) The Secretary of the Navy shall join with the Secretary of Commerce in the negotiation and acquisition of satellite space segment capacity under this section in any case where the capacity to be used is the capacity specified in subparagraph (A) of this paragraph.

(3)(A) The Secretary of Commerce shall provide to the managers of the Pan-Pacific Educational and Cultural Experiments by Satellite Program such funds as the Secretary of Commerce considers necessary to manage the operation of satellite communications services acquired under this subsection.

(B) The recipient of funds under subparagraph (A) of this paragraph shall keep such records as may reasonably be necessary to enable the Secretary of Commerce to conduct an effective audit of such funds. Records.

(C) The Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipient that are pertinent to the funds received under subparagraph (A) of this paragraph.

(d) There are authorized to be appropriated $1,700,000 for each of the fiscal years 1988 and 1989 for use by the Secretary of Commerce in the development, including the acquisition, of satellite communications services under subsection (c) of this section. Sums appropriated pursuant to this subsection may be used by the Secretary of Commerce to cover administrative costs associated with the provisions of this section.

(e) The Secretary of Commerce shall consult with appropriate departments and agencies of the Federal Government, representatives of the Pan-Pacific Educational and Cultural Experiments by Satellite Program, and other affected parties regarding the development of a long-term commercial solution to the communication needs of the Pacific Ocean region. Within one year after the date of enactment of this Act, the Secretary of Commerce shall report to the Congress regarding such consultation. 102 STAT. 2972 Reports.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 2472 (S. 828):

HOUSE REPORTS: No. 100-362 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-93 accompanying S. 828 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 13, considered and passed House.
Vol. 134 (1988): Aug. 4, H.R. 2472 considered and passed Senate, amended, in lieu of S. 828.
Oct. 19, House concurred in Senate amendment.

102 STAT. 2984 Public Law 100-589
100th Congress

An Act

Nov. 3, 1988
[H.R. 4124]

To authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 1851 note.

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 7 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851) is amended by striking "and 1988," and inserting in lieu thereof "1988, 1989, 1990, and 1991,".

16 USC 1851 note.

SEC. 2. EFFECTIVE PERIOD.

Section 9 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851) is amended by striking "1988." and inserting in lieu thereof "1991.".

SEC. 3. FUNDING OF STRIPED BASS STUDIES.

Section 7(d) of the Anadramous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking "the fiscal year ending September 30, 1980," and all that follows through "September 30, 1988" and inserting in lieu thereof "each of the fiscal years 1988, 1989, 1990, and 1991".

SEC. 4. COMMISSION FUNCTIONS.

Section 4(a)(1) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by inserting "and at any other time it deems necessary," immediately after "thereafter,".

16 USC 1851 note.

SEC. 5. STUDY OF STRIPED BASS IN ALBEMARLE SOUND AND ROANOKE RIVER BASIN.

(a) FINDINGS.—The Congress finds that:

(1) The anadromous stock of striped bass in the Albemarle Sound-Roanoke River Basin area of North Carolina sustained important commercial and recreational fisheries as recently as the 1960's and 1970's.

(2) This stock has been declining for some time and is severely depressed at present, and may soon reach a level from which recovery will be exceptionally difficult.

(3) The reasons for this decline are thought to include fishing; other human activities and environmental factors, such as unsuitable water flow before, during, and after critical spawning periods; degradation of water quality by pollutants; the impact of eutrophication on the food chain, and the impact of changing land use activities.

(4) Current Federal and interstate efforts to conserve the Atlantic striped bass, while effective in identifying factors contributing to the decline of other important Atlantic coastal migratory stocks of striped bass and steps that will be effective in reversing that decline, have not made a major contribution to the protection and restoration of the Albemarle Sound-Roanoke River stock of striped bass.

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(5) Because the striped bass and the aquatic environment of the Albemarle Sound-Roanoke River basin presently are being significantly affected by combined but not fully understood causes, a study should be undertaken to obtain additional biological information to understand the significance of fishing, water flows, and other factors in the decline of the striped bass populations in the Albemarle Sound-Roanoke River basin and, if feasible, develop an effective course of action for restoring these important stocks of striped bass.

(b) STUDY.—

(1) IN GENERAL.—The Director of the United States Fish and Wildlife Service, in consultation with the Assistant Adminis-

trator for Fisheries of the National Oceanic and Atmospheric Administration shall—

(A) immediately undertake a biological study of the striped bass fishery resources and habitats of the Albemarle Sound-Roanoke River basin area;

(B) develop short-term and long-term recommendations for Federal and State government agencies for restoring and conserving such resources and habitats; and

(C) submit the results of such study and such recommendations to the Congress and to the States of North Carolina and Virginia as soon as practicable, but not later than 36 months after the date of the enactment of this Act.

North Carolina. Virginia.

(2) CONTENTS OF THE STUDY.—The study conducted under this subsection shall, to the extent existing data are adequate, use such existing data and shall include—

(A) a description of the Albemarle Sound-Roanoke River basin area, and an investigation and analysis of the effects of land and water use practices on the striped bass population and habitats of the area;

(B) an investigation and analysis of the abundance and age and geographic distribution of the Albemarle Sound-Roanoke River stock of striped bass, including the amount and geographical location of migration and spawning habitat;

(C) an investigation and analysis of factors that may affect the abundance and age and geographic distribution of the Albemarle Sound-Roanoke River stock of striped bass, including—

(i) the extent and causes of mortality at successive stages in the life cycle of striped bass, including mortality due to recreational and commercial fishing; and

(ii) the combined effects of pollution and other natural and human alterations of the physical environment, including the effects of water withdrawals, discharges, and flows, on striped bass migration and spawning and on the viability and condition of eggs and larval fish;

(D) an investigation and analysis of the status and effectiveness of current striped bass management measures implemented by State and Federal authorities, including State fishing regulations and Federal fish stocking activities, reservoir management and water flow regulation, and an analysis of whether any additional State or Federal measures would be effective in halting the decline and initiating the recovery of the Albemarle Sound-Roanoke River stock of striped bass; and

102 STAT. 2986

(E) a recommendation of whether conservation of the Albermarle Sound-Roanoke River stocks of striped bass could be improved by management of these stocks under the provisions of the Atlantic States Marine Fisheries Commission's Interstate Fisheries Management Plan for Striped Bass and the Atlantic Striped Bass Conservation Act.

(c) PARTICIPATION BY STATE AGENCIES.—

(1) The Director of the North Carolina Division of Marine Fisheries, the Executive Director of the North Carolina Wildlife Resources Commission, the Secretary of the Virginia Department of Natural Resources, and the District Engineer for the Wilmington District of the United States Army Corps of Engineers shall be invited to have their agencies participate in conducting the study and developing recommendations pursuant to subsection (b).

(2) To facilitate participation by the agencies referred to in paragraph (1), should they decide to participate, a Memorandum of Understanding will be executed with such officials setting forth the respective responsibilities of the entities involved in conducting the study and developing those recommendations.

(d) CONSULTATION.—In carrying out the study under subsection (b), the Atlantic States Marine Fisheries Commission, other Federal agencies, the Albermarle-Pamlico Estuarine Study, Dominion Resources, Inc./Virginia Power/North Carolina Power, affected local governments in North Carolina and Virginia, appropriate commercial and recreational fishing interests, and other interests shall be consulted, to the maximum extent practicable.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated the sum of $1,000,000 to carry out the requirements of this section. These appropriations will remain available until expended.

(f) STATE AUTHORITY.—Nothing in this section shall be construed as authorizing any State to manage fisheries within the jurisdiction of another State.

(g) RESTRICTION ON USE OF OTHER FUNDS.—Amounts appropriated pursuant to the authorization contained in section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) shall not be used to carry out this section.

16 USC 1851 note.

SEC. 6. PROTECTION OF STRIPED BASS IN THE EXCLUSIVE ECONOMIC ZONE.

(a) REGULATION OF FISHING IN EXCLUSIVE ECONOMIC ZONE.—The Secretary of Commerce shall promulgate regulations governing the fishing for Atlantic striped bass in the exclusive economic zone that the Secretary determines to be consistent with the national standards set forth in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851) and necessary and appropriate to—

(1) ensure the effectiveness of State regulations or a Federal moratorium on fishing for Atlantic striped bass within the coastal waters of a coastal State; and

(2) achieve conservation and management goals for the Atlantic striped bass resource.

102 STAT. 2987

State and local governments.

(b) CONSULTATION; PERIODIC REVIEW OF REGULATIONS.—In preparing regulations under subsection (a), the Secretary shall consult with the Atlantic States Marine Fisheries Commission, the appropriate Regional Fishery Management Councils, and each affected Federal, State, and local government entity. The Secretary shall periodically review regulations promulgated under subsection (a), and if necessary to ensure their continued consistency with the requirements of subsection (a), shall amend those regulations.

(c) FISHERY MANAGEMENT PLAN ON STRIPED BASS.—

(1) The appropriate Regional Fishery Management Councils may prepare a fishery management plan on Atlantic striped bass, which if approved and implemented by the Secretary shall supersede any regulations promulgated under subsection (a). Such plan shall—

(A) meet the requirements of sections 301 and 303 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 and 1853);

(B) apply to all fishing for Atlantic striped bass within the exclusive economic zone; and

(C) ensure the effectiveness of the Plan of the Atlantic States Marine Fisheries Commission defined under section 3(7) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note).

(2) The Secretary shall review such fishery management plan pursuant to section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) and shall approve the plan if it meets the requirements of paragraph (1) and other provisions of this section. The Secretary shall implement the plan by promulgating regulations in accordance with section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855). No regulation promulgated under subsection (a) shall have force and effect during any period in which regulations implementing such plan are in effect.

(d) APPLICABILITY OF MAGNUSON ACT PROVISIONS.—The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations and any plan issued under subsection (a) or (c) of this section as if such regulations or plan were issued under the Magnuson Fishery Conservation and Management Act.

(e) DEFINITION.—As used in this section, the term "exclusive economic zone" has the meaning given such term in section 3(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(6)).

(f) EFFECTIVE PERIOD.—Subsections (a) through (e) of this section shall cease to have force and effect at the close of September 30, 1991.

(g) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 3 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended to read as follows:

"(1) The term 'Magnuson Act' means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).". 102 STAT. 2988

16 USC 1851 note.

(2) Section 5 of such Act is amended by striking "Act of 1976" each place it appears and inserting in lieu thereof "Magnuson Act".

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 4124 (S. 2384):

HOUSE REPORTS: No. 100-766 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed House.
Oct. 14, considered and passed Senate, amended, in lieu of S. 2384.
Oct. 19, House concurred in Senate amendment.

Public Law 100-594
100th Congress

102 STAT. 3021

An Act

To amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes.

Nov. 3, 1988
[S. 1048]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Communications Commission Authorization Act of 1988.
47 USC 609 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Communications Commission Authorization Act of 1988".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. There are authorized to be appropriated for the administration of this Act by the Commission $107,250,000 for fiscal year 1988 and $109,250,000 for fiscal year 1989, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1988 and 1989.".

47 USC 156 note.

(b) The amendment made by subsection (a) of this section shall apply with respect to fiscal years beginning after September 30, 1987.

TRAVEL REIMBURSEMENT PROGRAM

SEC. 3. Section 4(g)(2)(D) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)(D)) is amended by striking "1987" and inserting in lieu thereof "1989".

ANNUAL MANAGEMENT REPORT

SEC. 4. Subsection (g) of section 5 of the Communications Act of 1934 (47 U.S.C. 155) is repealed.

FEE SCHEDULE

SEC. 5. Section 8(b)(1) of the Communications Act (47 U.S.C. 158(b)(1)) is amended by striking "the date of enactment of this section" the first time it appears and inserting in lieu thereof "April 1, 1987,".

OLDER AMERICANS PROGRAM

Grants.
Contracts.
47 USC 154 note.

SEC. 6. (a) During fiscal years 1988 and 1989, the Federal Communications Commission is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations to

102 STAT. 3022

utilize the talents of older Americans in programs authorized by other provisions of law administered by the Commission (and consistent with such provisions of law) in providing technical and administrative assistance for projects related to the implementation, promotion, or enforcement of the regulations of the Commission.

(b) Prior to awarding any grant or entering into any agreement under subsection (a), the Office of the Managing Director of the Commission shall certify to the Commission that such grant or agreement will not—

(1) result in the displacement of individuals currently employed by the Commission;

(2) result in the employment of any individual when any other individual is on layoff status from the same or a substantially equivalent job within the jurisdiction of the Commission;

(3) result in filling a position prior to (A) publicly announcing the availability of such position, and (B) attempting to fill such position in accordance with regular employment procedures; or

(4) affect existing contracts for services.

(c) Participants in any program under a grant or cooperative agreement pursuant to this section shall—

(1) execute a signed statement with the Commission in which such participants certify that they will adhere to the standards of conduct prescribed for regular employees of the Commission, as set forth in part 19 of title 47, Code of Federal Regulations; and

(2) execute a confidential statement of employment and financial interest (Federal Communications Commission Form A-54) prior to commencement of work under the program.

Failure to comply with the terms of the signed statement described in paragraph (1) shall result in termination of the individual under the grant or agreement.

(d) Nothing in this section shall be construed to permit employment of any such participant in any decisionmaking or policymaking position.

(e) Grants or agreements under this section shall be subject to prior appropriation Acts.

CONGRESSIONAL COMMUNICATIONS

SEC. 7. (a) The prohibition in section 1.1203(a) of title 47, Code of Federal Regulations, shall not apply to any of the types of presentations listed in section 1.1204(b) of such title nor to any presen-

tation made by a member or officer of Congress, or a staff person of any such member or officer, acting in his or her official capacity, in—

(1) any non-restricted proceeding under section 1.1206(b) of such title;

(2) any exempt proceeding under section 1.1204(a)(2) of such title not involving the allotment of a channel in the radio broadcast or television broadcast services; or

(3) any exempt proceeding under section 1.1204 (a)(4) through (a)(6) of such title.

(b) Each reference in subsection (a) of this section to a provision of title 47, Code of Federal Regulations, applies to such provision as in effect on the date of enactment of this Act. No subsequent amendment of the rules or regulations in such title shall have the effect of prohibiting any presentation of the kind that would be permitted under subsection (a) of this section on the date of enactment of this Act. 102 STAT. 3023

TARIFF REVIEW

SEC. 8. (a) Section 5(c)(1) of the Communications Act of 1934 (47 U.S.C. 155(c)(1)) is amended, in the first sentence, by inserting immediately after "this subsection" the following: "and except any action referred to in sections 204(a)(2), 208(b), and 405(b)".

(b) Section 204(a) of the Communications Act of 1934 (47 U.S.C. 204(a)) is amended—

(1) by inserting "(1)" immediately before "Whenever"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), the Commission shall, with respect to any hearing under this section, issue an order concluding such hearing within 12 months after the date that the charge, classification, regulation, or practice subject to the hearing becomes effective, or within 15 months after such date if the hearing raises questions of fact of such extraordinary complexity that the questions cannot be resolved within 12 months.

"(B) The Commission shall, with respect to any such hearing initiated prior to the date of enactment of this paragraph, issue an order concluding the hearing not later than 12 months after such date of enactment.

"(C) Any order concluding a hearing under this section shall be a final order and may be appealed under section 402(a).".

(c) Section 208 of the Communications Act of 1934 (47 U.S.C. 208) is amended—

(1) by redesignating the existing text as subsection (a); and

(2) by adding at the end the following new subsection:

"(b)(1) Except as provided in paragraph (2), the Commission shall, with respect to any investigation under this section of the lawfulness of a charge, classification, regulation, or practice, issue an order concluding such investigation within 12 months after the date on which the complaint was filed, or within 15 months after such date if the investigation raises questions of fact of such extraordinary complexity that the questions cannot be resolved within 12 months.

"(2) The Commission shall, with respect to any such investigation initiated prior to the date of enactment of this subsection, issue an order concluding the investigation not later than 12 months after such date of enactment.

"(3) Any order concluding an investigation under paragraph (1) or (2) shall be a final order and may be appealed under section 402(a).".

(d) Section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended—

(1) by redesignating the existing text as subsection (a);

(2) in subsection (a), as so redesignated, by striking "section 5(d)(1)" each place it appears and inserting in lieu thereof "section 5(c)(1)"; and

(3) by adding at the end the following new subsection:

"(b)(1) Within 90 days after receiving a petition for reconsideration of an order concluding a hearing under section 204(a) or concluding an investigation under section 208(b), the Commission shall issue an order granting or denying such petition.

"(2) Any order issued under paragraph (1) shall be a final order and may be appealed under section 402(a).".

HAWAII MONITORING STATION

Real property.

SEC. 9. (a) The Federal Communications Commission is authorized to expend such funds as may be required in fiscal years 1989 and 1990, out of its appropriations for such fiscal years, to relocate within the State of Hawaii the Hawaii Monitoring Station presently located in Honolulu (Waipahu), including all necessary expenses for—

(1) acquisition of real property;

(2) options to purchase real property;

(3) architectural and engineering services;

(4) construction of a facility at the new location;

(5) transportation of equipment and personnel;

(6) lease-back of real property and related personal property at the present location of the Monitoring Station pending acquisition of real property and construction of a facility at a new location; and

(7) the re-establishment, if warranted by the circumstances, of a downtown office to serve the residents of Honolulu.

(b) The Federal Communications Commission shall declare as surplus property, for disposition by the General Services Administration, the real property (including the structures and fixtures) and related personal property which are at the present location of the Hawaii Monitoring Station and which will not be relocated. Notwithstanding sections 203 and 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484 and 485), the General Services Administration shall sell such real and related personal property on an expedited basis, including provisions for leaseback as required, and shall reimburse the Commission from the net proceeds of the sale for all of the expenditures of the Commission associated with such relocation of the Monitoring Station. Any such reimbursed funds received by the Commission shall remain available until expended.

(c) The net proceeds of the sale of such real and related property, less any funds reimbursed to the Federal Communications Commission pursuant to subsection (b), and less normal and reasonable charges by the General Services Administration for costs associated with such sale, shall be deposited in the general funds of the Treasury.

(d) The Hawaii Monitoring Station shall continue its full operations at its present location until a new facility has been built and is fully operational at a new location.

(e) The Federal Communications Commission and the General Services Administration shall not take any action under this section committing any funds disposing of any property in connection with the relocation of the Hawaii Monitoring Station until—

(1) the Chairman of the Commission and the Administrator of General Services have jointly prepared and submitted, to the Committee on Appropriations, the Committee on Commerce, Science, and Transportation, and the Committee on Governmental Affairs of the Senate, and the Committee on Appropriations, the Committee on Energy and Commerce, and the Committee on Government Operations of the House of Representatives, a letter or other document setting forth in detail the plan and procedures for such relocation which will reasonably carry out, in an expeditious manner, the provisions of this section but will not disrupt or defer any programs or regulatory

activities of the Commission or adversely affect any employee of the Commission (other than those at the Monitoring Station who may be required to transfer to another location) through the use of appropriations for the Commission, in fiscal years 1989 and 1990; and

(2) at least 30 calendar days have passed since the receipt of such document by such committees.

102 STAT. 3025

SENSE OF CONGRESS

SEC. 10. (a) The Congress finds that—

(1) more than four hundred and thirty-five thousand four hundred radio amateurs in the United States are licensed by the Federal Communications Commission upon examination in radio regulations, technical principles, and the international Morse code;

(2) by international treaty and the Federal Communications Commission regulation, the amateur is authorized to operate his or her station in a radio service of intercommunications and technical investigations solely with a personal aim and without pecuniary interest;

(3) among the basic purposes for the Amateur Radio Service is the provision of voluntary, noncommercial radio service, particularly emergency communications; and

(4) volunteer amateur radio emergency communications services have consistently and reliably been provided before, during, and after floods, tornadoes, forest fires, earthquakes, blizzards, train wrecks, chemical spills, and other disasters.

(b) It is the sense of the Congress that—

(1) it strongly encourages and supports the Amateur Radio Service and its emergency communications efforts; and

(2) Government agencies shall take into account the valuable contributions made by amateur radio operators when considering actions affecting the Amateur Radio Service.

Approved November 3, 1988.

LEGISLATIVE HISTORY—S. 1048 (H.R. 2961):

HOUSE REPORTS: No. 100-363 accompanying H.R. 2961 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-142 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 13, H.R. 2961 considered and passed House.
Vol. 134 (1988): Oct. 7, S. 1048 considered and passed Senate.
Oct. 19, considered and passed House.

Public Law 100-627
100th Congress

102 STAT. 3213

An Act

To authorize appropriations to carry out titles II and III of the Marine Protection, Research, and Sanctuaries Act of 1972, to establish the National Oceans Policy Commission, and for other purposes.

Nov. 7, 1988
[H.R. 4210]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—COMPREHENSIVE OCEAN DUMPING RESEARCH PROGRAM AMENDMENTS AND AUTHORIZATION

SEC. 101. RESEARCH TO BE CONSISTENT WITH COMPREHENSIVE PLAN.

Subsection (a) of section 202 of the Marine Protection, Research,

and Sanctuaries Act of 1972 (33 U.S.C. 1442(a)) is amended by adding at the end the following:

"(3) The Secretary of Commerce shall ensure that the comprehensive and continuing research program conducted under this subsection is consistent with the comprehensive plan for ocean pollution research and development and monitoring prepared under section 4 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1703).".

SEC. 102. ANNUAL REPORT.

Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is amended by adding at the end the following:

Reports.

"(c) On October 31 of each year, the Under Secretary shall report to the Congress the specific programs that the National Oceanic and Atmospheric Administration and the Environmental Protection Agency carried out pursuant to this title in the previous fiscal year, specifically listing the amount of funds allocated to those specific programs in the previous fiscal year.".

SEC. 103. AUTHORIZATION.

Section 205 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1445) is amended—

(1) by striking "and" immediately following "fiscal year 1986,"; and

(2) by striking "1987." and inserting in lieu thereof "1987, not to exceed $13,500,000 for fiscal year 1989, and not to exceed $14,500,000 for fiscal year 1990.".

TITLE II—NATIONAL MARINE SANCTUARIES PROGRAM AMENDMENTS AND AUTHORIZATION

SEC. 201. DEFINITION OF ACT.

For purposes of this title, the term "Act" means title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431-1439).

102 STAT. 3214

SEC. 202. SANCTUARY DESIGNATION PROCEDURE AMENDMENTS.

Federal Register, publication.

Paragraph (1) of section 304(b) of the Act (16 U.S.C. 1434(b)(1)) is amended by inserting after the second sentence the following: "The Secretary shall issue a notice of designation with respect to a proposed national marine sanctuary site not later than 30 months after the date a notice declaring the site to be an active candidate for sanctuary designation is published in the Federal Register under regulations issued under this Act, or shall publish not later than such date in the Federal Register findings regarding why such notice has not been published.".

SEC. 203. PROMOTION AND COORDINATION OF RESEARCH; SPECIAL USE PERMITS; USE OF DONATIONS.

The Act is amended—

16 USC 1438.
16 USC 1439.

(1) by striking section 308;

(2) by redesignating section 309 as section 308; and

(3) by adding at the end the following:

16 USC 1440.

"SEC. 309. PROMOTION AND COORDINATION OF RESEARCH.

"The Secretary shall take such action as is necessary to promote and coordinate the use of national marine sanctuaries for research purposes, including—

"(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting marine research, give priority to research involving national marine sanctuaries; and

"(2) consulting with other Federal and State agencies to promote use by such agencies of one or more sanctuaries for marine research.

"SEC. 310. SPECIAL USE PERMITS. 16 USC 1441.

"(a) ISSUANCE OF PERMITS.—The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary—

"(1) to establish conditions of access to and use of any sanctuary resource; or

"(2) to promote public use and understanding of a sanctuary resource.

"(b) PERMIT TERMS.—A permit issued under this section—

"(1) shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;

"(2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;

"(3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

"(4) shall require the permittee to purchase and maintain comprehensive general liability insurance against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

"(c) FEES.—

"(1) ASSESSMENT AND COLLECTION.—The Secretary may assess and collect fees for the conduct of any activity under a permit issued under this section. 102 STAT. 3215

"(2) AMOUNT.—The amount of a fee under this subsection shall be equal to the sum of—

"(A) costs incurred, or expected to be incurred, by the Secretary in issuing the permit;

"(B) costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and

"(C) an amount which represents the fair market value of the use of the sanctuary resource and a reasonable return to the United States Government.

"(3) USE OF FEES.—Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary—

"(A) for issuing and administering permits under this section; and

"(B) for expenses of designating and managing national marine sanctuaries.

"(d) VIOLATIONS.—Upon violation of a term or condition of a permit issued under this section, the Secretary may—

"(1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;

"(2) assess a civil penalty in accordance with section 307; or

"(3) both.

"(e) REPORTS.—Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

"(f) FISHING.—Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities in a national marine sanctuary.

"SEC. 311. COOPERATIVE AGREEMENTS AND DONATIONS. 16 USC 1442.

"(a) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with any nonprofit organization—

"(1) to aid and promote interpretive, historical, scientific, and educational activities; and

"(2) for the solicitation of private donations for the support of such activities.

"(b) DONATIONS.—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this title.".

SEC. 204. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

(a) LIABILITY FOR DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.—The Act is amended by adding at the end the following:

16 USC 1443.

"SEC. 312. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

"(a) LIABILITY.—

"(1) IN GENERAL.—Subject to paragraph (3), any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.

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Maritime affairs.

"(2) LIABILITY IN REM.—Any vessel used to destroy, cause the loss of, or injure any sanctuary resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury.

"(3) DEFENSES.—A person is not liable under this subsection if that person establishes that—

"(A) the destruction or loss of, or injury to, the sanctuary resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and the person acted with due care;

"(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

"(C) the destruction, loss, or injury was negligible.

"(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

"(1) RESPONSE ACTIONS.—The Secretary may undertake all necessary actions to prevent or minimize the destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risk of such destruction, loss, or injury.

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"(2) DAMAGE ASSESSMENT.—The Secretary shall assess damages to sanctuary resources in accordance with section 302(6).

"(c) CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.—The Attorney General, upon request of the Secretary, may commence a civil action in the United States district court for the appropriate district against any person or vessel who may be liable under subsection (a) for response costs and damages. The Secretary, acting as trustee for sanctuary resources for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

"(d) USE OF RECOVERED AMOUNTS.—Response costs and damages recovered by the Secretary under this section and civil penalties under section 307 shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9607(f)(1)), and used as follows:

"(1) RESPONSE COSTS AND DAMAGE ASSESSMENTS.—Twenty percent of amounts recovered under this section, up to a maximum balance of $750,000, shall be used to finance response actions and damage assessments by the Secretary.

"(2) RESTORATION, REPLACEMENT, MANAGEMENT, AND IMPROVEMENT.—Amounts remaining after the operation of paragraph (1) shall be used, in order of priority—

"(A) to restore, replace, or acquire the equivalent of the sanctuary resources which were the subject of the action;

"(B) to manage and improve the national marine sanctuary within which are located the sanctuary resources which were the subject of the action; and

"(C) to manage and improve any other national marine sanctuary.

"(3) USE OF CIVIL PENALTIES.—Amounts recovered under section 307 in the form of civil penalties shall be used by the Secretary in accordance with section 307(e) and paragraphs (2) (B) and (C) of this subsection.

"(4) FEDERAL-STATE COORDINATION.—Amounts recovered under this section with respect to sanctuary resources lying within the jurisdiction of a State shall be used under paragraphs (2) (A) and (B) in accordance with an agreement entered into by the Secretary and the Governor of that State.". 102 STAT. 3217

(b) DAMAGES, RESPONSE COSTS, AND SANCTUARY RESOURCE DEFINED.—Section 302 of the Act (16 U.S.C. 1432) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period in paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) 'damages' includes—

"(A) compensation for—

"(i)(I) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource; and

"(II) the value of the lost use of a sanctuary resource pending its restoration or replacement or the acquisition of an equivalent sanctuary resource; or

"(ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired; and

"(B) the cost of damage assessments under section 312(b)(2);

"(7) 'response costs' means the costs of actions taken by the Secretary to minimize destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risks of such destruction, loss, or injury; and

"(8) 'sanctuary resource' means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, research, educational, or aesthetic value of the sanctuary.".

(c) EFFECTIVE DATE.—Amounts in the form of damages received by the United States after November 30, 1986, for destruction or loss of, or injury to, a sanctuary resource (as that term is defined in section 302(8) of the Act (as amended by this Act)) shall be subject to section 312 of the Act (as amended by this Act). 16 USC 1443 note.

SEC. 205. ACTIONS WITH RESPECT TO NEW SANCTUARIES.

(a) ISSUANCE OF NOTICE OF DESIGNATION.—The Secretary of Commerce shall issue a notice of designation under section 304(b)(1) of the Act (16 U.S.C. 1434(b)(1))—

(1) with respect to the proposed Cordell Banks National Marine Sanctuary as generally described in the Federal Register notice of June 30, 1983, not later than December 31, 1988;

(2) with respect to the Flower Garden Banks National Marine Sanctuary as generally described in the Federal Register notice of August 2, 1984, not later than March 31, 1989;

(3) with respect to the Monterey Bay National Marine Sanctuary as generally described in the Federal Register notice of December 31, 1979, not later than December 31, 1989; and

(4) with respect to the Western Washington Outer Coast National Marine Sanctuary as generally described in the Federal Register notice of August 4, 1983, not later than June 30, 1990.

(b) SUBMISSION OF PROSPECTUSES.—The Secretary of Commerce shall submit a prospectus under section 304(a)(1)(C) and (a)(5) of the Act (16 U.S.C. 1434(a)(1)(C) and (a)(5)) to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate—

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(1) with respect to the Stellwagen Bank National Marine Sanctuary, as generally described in the Federal Register notice of August 4, 1983, not later than September 30, 1990; and

(2) with respect to the Northern Puget Sound National Marine Sanctuary, as generally described as the Washington State Nearshore area in the Federal Register notice of August 4, 1983, not later than March 31, 1991.

SEC. 296. STUDY OF AREAS FOR DESIGNATION AS OR INCLUSION IN NATIONAL MARINE SANCTUARIES.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Commerce shall conduct a study of the areas described in subsection (c) for purposes of making determinations and findings in accordance with section 303(a) of the Act (16 U.S.C. 1433(a))—

(A) regarding whether or not all or any part of such areas are appropriate for designation as national marine sanctuaries in accordance with the Act; and

(B) regarding whether or not all or any part of the areas described in subsection (c) (1), (2), and (3) should be added to and administered as part of the Key Largo National Marine Sanctuary or the Looe Key National Marine Sanctuary.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate which sets forth the determinations and findings referred to in paragraph (1).

(b) DESIGNATION OR EXPANSION OF MARINE SANCTUARIES.—If as a result of a study conducted pursuant to subsection (a) the Secretary of Commerce makes the determinations and findings set forth in section 303(a) of the Act (16 U.S.C. 1433(a)) with respect to all or any part of the areas described in subsection (c), the Secretary of Commerce, in accordance with the procedures for the designation of national marine sanctuaries set forth in section 304 of the Act (16 U.S.C. 1434)—

(1) shall designate such areas or parts of such areas as national marine sanctuaries; or

(2) shall, with respect to all or any part of the areas described in subsections (c) (1), (2), and (3), add such areas or parts of such areas to the Key Largo National Marine Sanctuary or the Looe Key National Marine Sanctuary;

as the Secretary of Commerce considers appropriate.

(c) AREAS DESCRIBED.—The areas referred to in subsections (a) and (b) are the following:

Florida.

(1) AMERICAN SHOAL.—The portion of the marine environment in the Florida Keys in the vicinity of American Shoal, including the part of such environment located generally between such shoal and the Marquesas Keys.

(2) SOMBRERO KEY.—The portion of the marine environment in the Florida Keys in the vicinity of and surrounding Sombrero Key.

(3) ALLIGATOR REEF.—The portion of the marine environment in the Florida Keys in the vicinity of and surrounding Alligator Reef, including the portion located generally between such reef and the Key Largo National Marine Sanctuary.

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California.

(4) SANTA MONICA BAY.—The portion of the marine environment off the coast of California commonly referred to as Santa Monica Bay, consisting of an area described generally as follows: Beginning at the point known as Point Dume near the western extent of Santa Monica Bay, proceed generally southeast along the shoreline to the point known as Point Vincente near the southern extent of Santa Monica Bay; then west to the 900 meter bathymetric contour; then generally northwest along the 900 meter bathymetric contour to a point due west of Point Dume; then east to Point Dume at the point of beginning.

(d) DEFINITION OF MARINE ENVIRONMENT.—For the purposes of this section, the term "marine environment" has the meaning such term has in section 302(3) of the Act (16 U.S.C. 1432(b)).

SEC. 207. ENFORCEMENT AMENDMENTS.

Section 307 of the Act (16 U.S.C. 1437) is amended to read as follows:

"SEC. 307 ENFORCEMENT.

"(a) IN GENERAL.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title.

"(b) POWERS OF AUTHORIZED OFFICERS.—Any person who is authorized to enforce this title may—

"(1) board, search, inspect, and seize any vessel suspected of being used to violate this title or any regulation or permit issued under this title and any equipment, stores, and cargo of such vessel; Maritime affairs.

"(2) seize wherever found any sanctuary resource taken or retained in violation of this title or any regulation or permit issued under this title;

"(3) seize any evidence of a violation of this title or of any regulation or permit issued under this title;

"(4) execute any warrant or other process issued by any court of competent jurisdiction; and

"(5) exercise any other lawful authority.

"(c) CIVIL PENALTIES.—

"(1) CIVIL PENALTY.—Any person subject to the jurisdiction of the United States who violates this title or any regulation or permit issued under this title shall be liable to the United States for a civil penalty of not more than $50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(2) NOTICE.—No penalty shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

"(3) IN REM JURISDICTION.—A vessel used in violating this title or any regulation or permit issued under this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction. Maritime affairs.

"(4) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under this subsection may obtain review in the United States district court for the appropriate district by filing a complaint in such court not later than 30 days after the date of such order.

"(5) COLLECTION OF PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review. 102 STAT. 3220

"(6) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is or may be imposed under this section.

"(d) FORFEITURE.—

"(1) IN GENERAL.—Any vessel (including the vessel's equipment, stores, and cargo) and other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this title or of any regulation or permit issued under this title shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection. Maritime affairs.

"(2) APPLICATION OF THE CUSTOMS LAWS.—The Secretary may exercise the authority of any United States official granted by any relevant customs law relating to the seizure, forfeiture, condemnation, disposition, remission, and mitigation of property in enforcing this title.

"(3) DISPOSAL OF SANCTUARY RESOURCES.—Any sanctuary resource seized pursuant to this title may be disposed of pursuant to an order of the appropriate court, or, if perishable, in a manner prescribed by regulations promulgated by the Secretary. Any proceeds from the sale of such sanctuary resource shall for all purposes represent the sanctuary resource so disposed of in any subsequent legal proceedings.

"(4) PRESUMPTION.—For the purposes of this section there is a rebuttable presumption that all sanctuary resources found on board a vessel that is used or seized in connection with a violation of this title or of any regulation or permit issued under this title were taken or retained in violation of this title or of a regulation or permit issued under this title.

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—

"(1) IN GENERAL.—Notwithstanding any other law, the Secretary may use amounts received under this section in the form of civil penalties, forfeitures of property, and costs imposed under paragraph (2) to pay—

"(A) the reasonable and necessary costs incurred by the Secretary in providing temporary storage, care, and maintenance of any sanctuary resource or other property seized under this section pending disposition of any civil proceeding relating to any alleged violation with respect to which such property or sanctuary resource was seized; and

"(B) a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or of any regulation or permit issued under this title.

"(2) LIABILITY FOR COSTS.—Any person assessed a civil penalty for a violation of this title or of any regulation or permit issued under this title, and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any sanctuary resource or other property seized in connection with the violation.

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"(f) SUBPOENAS.—In the case of any hearing under this section which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths.

"(g) USE OF RESOURCES OF STATE AND OTHER FEDERAL AGENCIES.—The Secretary shall, whenever appropriate, use by agreement the personnel, services, and facilities of State and other Federal departments, agencies, and instrumentalities, on a reimbursable or nonreimbursable basis, to carry out the Secretary's responsibilities under this section.

"(h) COAST GUARD AUTHORITY NOT LIMITED.—Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

"(i) INJUNCTIVE RELIEF.—If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a sanctuary resource, or that there has been actual destruction or loss of, or injury to, a sanctuary resource which may give rise to liability under section 312, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the sanctuary resource, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.".

Courts, U.S.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS; U.S.S. MONITOR ARTIFACTS AND MATERIALS.

The Act is amended by adding at the end the following:

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS. 16 USC 1444.

"There are authorized to be appropriated to the Secretary to carry out this title the following:

"(1) GENERAL ADMINISTRATION.—For general administration of this title—

"(A) $1,800,000 for fiscal year 1989;
"(B) $1,900,000 for fiscal year 1990;
"(C) $2,000,000 for fiscal year 1991; and
"(D) $2,100,000 for fiscal year 1992.

"(2) MANAGEMENT OF SANCTUARIES.—For management of national marine sanctuaries designated under this title—

"(A) $2,000,000 for fiscal year 1989;
"(B) $2,500,000 for fiscal year 1990;
"(C) $3,000,000 for fiscal year 1991, and
"(D) $3,250,000 for fiscal year 1992.

"(3) SITE REVIEW AND ANALYSIS.—For review and analysis of sites for designation under this title as national marine sanctuaries—

"(A) $450,000 for fiscal year 1989;
"(B) $500,000 for fiscal year 1990;
"(C) $550,000 for fiscal year 1991; and
"(D) $600,000 for fiscal year 1992.

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"SEC. 314. U.S.S. MONITOR ARTIFACTS AND MATERIALS. North Carolina. 16 USC 1445.

"(a) CONGRESSIONAL POLICY.—In recognition of the historical significance of the wreck of the United States ship Monitor to coastal North Carolina and to the area off the coast of North Carolina known as the Graveyard of the Atlantic, the Congress directs that a suitable display of artifacts and materials from the United States ship Monitor be maintained permanently at an appropriate site in coastal North Carolina.

"(b) INTERPRETATION AND DISPLAY OF ARTIFACTS.—

"(1) SUBMISSION OF PLAN.—The Secretary shall, within six months after the date of the enactment of this section, submit to the Committee on Merchant Marine and Fisheries of the House of Representatives a plan for a suitable display in coastal North Carolina of artifacts and materials of the United States ship Monitor.

"(2) CONTENTS OF PLAN.—The plan submitted under subsection (a) shall, at a minimum, contain—

"(A) an identification of appropriate sites in coastal North Carolina, either existing or proposed, for display of artifacts and materials of the United States ship Monitor;

"(B) an identification of suitable artifacts and materials, including artifacts recovered or proposed for recovery, for display in coastal North Carolina;

"(C) an interpretive plan for the artifacts and materials which focuses on the sinking, discovery, and subsequent management of the wreck of the United States ship Monitor; and

"(D) a draft cooperative agreement with the State of North Carolina to implement the plan.

"(c) DISCLAIMER.—This section shall not affect the following:

"(1) RESPONSIBILITIES OF SECRETARY.—The responsibilities of the Secretary to provide for the protection, conservation, and display of artifacts and materials from the United States ship Monitor.

"(2) AUTHORITY OF SECRETARY.—The authority of the Secretary to designate the Mariner's Museum, located at Newport News, Virginia, as the principal museum for coordination of activities referred to in paragraph (1).". Virginia.

Maritime affairs.

SEC. 209. CHANNEL ISLANDS NATIONAL MARINE SANCTUARY PROTECTION.

(a) REPORT.—The Secretary of Transportation, not later than 6 months after the date of the enactment of this Act, shall transmit to Congress—

(1) the provisions of international conventions and United States laws and regulations which reduce the risk of a vessel collision or incident resulting in damage to the environment in the Channel Islands National Marine Sanctuary;

(2) the provisions of the National Contingency Plan for removal of oil and hazardous substances prepared under section 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) which enable the Secretary to effectively respond to an oil pollution incident in or affecting the Channel Islands National Marine Sanctuary;

(3) a list of pollution exercises conducted under that National Contingency Plan in the Santa Barbara Channel before the date of the enactment of this Act, and a schedule of pollution exercises scheduled to be conducted under that plan in that channel during the 12 months following the date of the enactment of this Act; and

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(4) a report on the establishment—

(A) under the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) of safety fairways off the coast of California; and

(B) of the Long Beach NAVTEX in Long Beach, California.

(b) STUDY REVIEW AND REPORT.—The Secretary of Transportation shall review all Federal, State, and local studies conducted on the hazards of shipping operations and the risks those operations pose to the environment and natural resources of the Channel Islands National Marine Sanctuary, and report to the Congress not later than 6 months after the date of the enactment of this Act on the status and recommendations of each of those studies. The Secretary shall include in the report a recommendation on whether an alternate vessel traffic separation scheme would reduce the risks of shipping operations to the environment and natural resources in the Channel Islands National Marine Sanctuary.

(c) PROPOSAL OF DESIGNATION OF AREA TO BE AVOIDED.—The Secretary of Transportation shall prepare and submit a proposal to the International Maritime Organization to designate the portion of the Channel Islands National Marine Sanctuary which is outside of the Santa Barbara Channel Traffic Separation Scheme, as an area to be avoided. The Secretary shall ensure that the proposal would not result in undue interference with international vessel traffic in the Santa Barbara Channel, with operations associated with the United States Navy Pacific Missile Test Range, or with enjoyment of the Channel Islands National Marine Sanctuary under title III of the National Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

16 USC 1432 note.

SEC. 216. REGULATIONS.

Not later than one year after the date of the enactment of this Act, the Secretary of Commerce—

(1) shall propose regulations implementing the amendments made by this title; and

(2) shall issue final regulations implementing the amendments made by the Marine Sanctuaries Amendments of 1984.

Approved November 7, 1988.

LEGISLATIVE HISTORY—H.R. 4210:

HOUSE REPORTS: No. 100-624, Pt. 1 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, 4, considered and passed House.
Oct. 12, considered and passed Senate, amended.
Oct. 13, House concurred in Senate amendments.

Public Law 100-636
100th Congress

102 STAT. 3324

An Act

To reauthorize the National Ocean Pollution Planning Act of 1978 for fiscal years 1989 and 1990, and for other purposes.

Nov. 8, 1988
[H.R. 4211]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701-1709) is amended as follows:

(1) Paragraph (1) of section 3 (33 U.S.C. 1702(1)) is amended to read as follows:

"(1) The term "Administration" means the National Oceanic and Atmospheric Administration of the United States Department of Commerce.".

(2) Paragraph (2) of section 3 (33 U.S.C. 1702(2)) is repealed.

(3) Paragraphs (3), (4), (5), (6), (7), and (8) of section 3 (33 U.S.C. 1702 (3), (4), (5), (6), (7), and (8)) are redesignated as paragraphs (2), (3), (4), (5), (6), and (7), respectively.

(4) Section 3 is amended by inserting after paragraph (7) (as redesignated) the following:

"(8) The term "Under Secretary" means the Under Secretary for Oceans and Atmosphere, United States Department of Commerce.".

(5) The term "Administrator" is struck each place it appears and the term "Under Secretary" is inserted in lieu thereof.

(6) Subparagraph (B) of section 3A(a)(2) (33 U.S.C. 1702a(a)(2)(B)) is amended to read as follows:

"(B) be headed by a director who shall—

"(i) be appointed by the Under Secretary, and

"(ii) be the official responsible for the administration of the program;".

(7) Subparagraph (B) of section 3A(b)(2) (33 U.S.C. 1702a(b)(2)(B)) is amended to read as follows:

"(B) review all department and agency budget requests transmitted to it under section 4 of this Act and submit a report simultaneously to the Office of Management and Budget and to the Congress concerning those budget requests;". Reports.

(8) Section 10 (33 U.S.C. 1709) is amended—

(A) by striking "and" immediately following "1986"; and

(B) by striking "1987." and inserting in lieu thereof "1987, not to exceed $3,750,000 for fiscal year 1989, and not to exceed $4,000,000 for fiscal year 1990.".

Approved November 8, 1988.

LEGISLATIVE HISTORY—H.R. 4211:

HOUSE REPORTS: No. 100-657, Pt. 1 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, 4, considered and passed House.
Oct. 19, considered and passed Senate.

102 STAT. 3853 Public Law 100-656
100th Congress

An Act

Nov. 15, 1988
[H.R. 1807]

To amend the Small Business Act to reform the Capital Ownership Development Program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Business Opportunity Development Reform Act of 1988.
Disadvantaged persons.
Contracts.
15 USC 631 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Business Opportunity Development Reform Act of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—CONGRESSIONAL FINDINGS AND PURPOSES

Sec. 101. Findings and purposes.

TITLE II—PROGRAM ORGANIZATION AND PARTICIPATION STANDARDS

Sec. 201. Program admission.
Sec. 202. Time limitations.
Sec. 203. Grandfathering.
Sec. 204. Business development objectives.
Sec. 205. Business plans.
Sec. 206. Eligibility reviews.
Sec. 207. Eligibility of native Hawaiians.
Sec. 208. Termination and graduation standards.
Sec. 209. Economic disadvantage.

TITLE III—BUSINESS DEVELOPMENT

Sec. 301. Stages of program participation.
Sec. 302. Loans.
Sec. 303. Contractual assistance.
Sec. 304. Subcontracting assistance.

TITLE IV—IMPROVED MANAGEMENT AND PROGRAM INTEGRITY

Sec. 401. Political appointees.
Sec. 402. Prohibited actions and employee responsibilities.
Sec. 403. Politically motivated activities.
Sec. 404. Reports by program participants.
Sec. 405. False representations.
Sec. 406. Congressionally requested investigations.
Sec. 407. Contract performance.
Sec. 408. Data collection.
Sec. 409. Due process rights.
Sec. 410. Employee training and evaluation.

TITLE V—CONTRACT PLANNING; GOAL SETTING AND REVIEWS

Sec. 501. Planning 8(a) contract activity.
Sec. 502. Annual contracting goals.
Sec. 503. Presidential report on contracting goals.
Sec. 504. General Accounting Office report.
Sec. 505. Commission on minority business development.

TITLE VI—ADMINISTRATIVE AND TECHNICAL AMENDMENTS

Sec. 601. Relationship with other procurement programs.
Sec. 602. Indian tribe exemption.
Sec. 603. Directors of small and disadvantaged business utilization.

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TITLE VII—SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM

PART A—SHORT TITLE AND FINDINGS

Sec. 701. Short title.
Sec. 702. Findings.

PART B—DEMONSTRATION PROGRAM

Sec. 711. Small Business Competitiveness Demonstration Program.
Sec. 712. Enhanced small business participation goals.
Sec. 713. Procurements procedures.
Sec. 714. Reporting.
Sec. 715. Test plan and policy direction.

Sec. 716. Report to Congress.
Sec. 717. Designated industry groups.
Sec. 718. Definitions.

PART C—PROGRAMS RELATING TO SPECIFIC INDUSTRIES

Sec. 721. Alternative program for clothing and textiles.
Sec. 722. Expanding small business participating in dredging.

PART D—AMENDMENTS TO THE SMALL BUSINESS ACT

Sec. 731. Technical amendment.
Sec. 732. Repealer.

PART E—OTHER AMENDMENTS

Sec. 741. Segmentation of industry category.
Sec. 742. Definition of architectural and engineering services.

TITLE VIII—AUTHORIZATIONS, EFFECTIVE DATES, AND MISCELLANEOUS MATTERS

Sec. 801. Regulations.
Sec. 802. Authorizations.
Sec. 803. Effective dates.

SEC. 2. DEFINITIONS. 15 USC 636 note.

For the purposes of this Act—

(1) the term "Administration" means the Small Business Administration;

(2) the term "Administrator" means the Administrator of the Small Business Administration, unless otherwise indicated;

(3) the term "disadvantaged owners" means those individuals upon whom eligibility is based for participation in the Program and the award of subcontracts pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(4) the term "minority owned businesses" means business concerns that are at least 51 percent owned and controlled by one or more individuals who belong to those groups described or identified pursuant to section 2(e)(1)(C) of the Small Business Act (15 U.S.C. 631(e)(1)(C));

(5) the term "Program" means the Small Business and Capital Ownership Development Program established by section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10));

(6) the term "Program Participant" means a small business concern participating in the Program; and

(7) the term "Program Participation Term" means the fixed period of time assigned to a Program Participant pursuant to section 7(j)(10)(A)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(A)(i)) prior to the date of enactment of this Act.

102 STAT. 3855

TITLE I—CONGRESSIONAL FINDINGS AND PURPOSES

SEC. 101. FINDINGS AND PURPOSES. 15 USC 636 note.

(a) FINDINGS.—The Congress finds that—

(1) the Capital Ownership Development Program administered by the Small Business Administration and the award of contracts pursuant to section 8(a) of the Small Business Act remain a primary tool for improving opportunities for small business concerns owned and controlled by socially and economically disadvantaged individuals in the Federal procurement process and bringing such concerns into the nation's economic mainstream;

(2) although some progress has resulted from the Program, it has generally failed to meet its objectives, which remain as valid now as when the Program was initiated;

(3) too few concerns that have exited the Program have been prepared to compete successfully in the open marketplace on competitive procurements, and many concerns have developed

an unhealthy dependency on sole-source contracts by the time they are required to leave the Program;

(4) the application and certification process for admitting new participants to the Program is inordinately lengthy and burdensome;

(5) the Administration has often not efficiently and equitably administered and managed the Program in a manner that provided clear lines of responsibility for implementing and monitoring many of the administrative duties under the Program;

(6) the Administration and some program participants have given insufficient attention and support to the business development goals of the Program and instead have focused almost entirely on the size of contract awards or the number of firms certified to participate in the Program;

(7) many Federal procuring agencies have failed to identify and offer the necessary amount of contract support in order to allow for diversification and growth of disadvantaged businesses participating in the Program;

(8) contract support as well as business development expenses have been misused both by the Administration and Program participants and have not been equitably distributed pursuant to objective criteria;

(9) the widespread perception of undue political influence in the operation and administration of the Program has significantly contributed to the Program's poor image and has deterred utilization of the Program by socially and economically disadvantaged concerns and by Federal procuring agencies; and

(10) it is imperative that increased competition and other substantial reforms be accomplished in the Program in order to promote the Congressionally mandated business development objectives and purposes.

(b) PURPOSES.—The purposes of this Act therefore are to—

(1) affirm that the Capital Ownership Development Program and the section 8(a) authority shall be used exclusively for business development purposes to help small businesses owned and controlled by the socially and economically disadvantaged to compete on an equal basis in the mainstream of the American economy;

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(2) affirm that the measure of success of the Capital Ownership Development Program, and the section 8(a) authority, shall be the number of competitive firms that exit the Program without being unreasonably reliant on section 8(a) contracts and that are able to compete on an equal basis in the mainstream of the American economy;

(3) ensure that program benefits accrue to individuals who are both socially and economically disadvantaged;

(4) increase the number of small businesses owned and controlled by such individuals from which the United States may purchase products and services (including construction work); and

(5) ensure integrity, competence, and efficiency in the administration of business development services and the Federal contracting opportunities made available to eligible small businesses.

TITLE II—PROGRAM ORGANIZATION AND PARTICIPATION STANDARDS

SEC. 201. PROGRAM ADMISSION.

(a) ELIGIBILITY OF PARTICIPANTS.—Section 7(j)(11) of the Small Business Act (15 U.S.C. 636(j)(11)) is amended by striking out "(11)" and inserting in lieu thereof "(11)(A)" and by adding the following new subparagraphs:

"(B) Except as provided in section 602(d) of the Business Opportunity Development Reform Act of 1988, any individual upon whom eligibility is based pursuant to section 8(a)(4), shall be permitted to assert such eligibility for only one small business concern. Notwithstanding the provisions of the preceding sentence, no individual who was determined pursuant to section 8(a) to be socially and economically disadvantaged before the effective date of this subparagraph shall be permitted to assert such disadvantage with respect to any other concern making application for certification after such effective date.

"(C) No concern, previously eligible for the award of contracts pursuant to section 8(a), shall be subsequently recertified for program participation if its prior participation in the program was concluded for any of the reasons described in paragraph (10)(E).

"(D) A concern eligible for the award of contracts pursuant to this subsection shall remain eligible for such contracts if there is a transfer of ownership and control (as defined pursuant to section 8(a)(4)) to individuals who are determined to be socially and economically disadvantaged pursuant to section 8(a). In the event of such a transfer, the concern, if not terminated or graduated, shall be eligible for a period of continued participation in the program not to exceed the time limitations prescribed in paragraph (15).

Establishment.

"(E) There is established a Division of Program Certification and Eligibility (hereinafter referred to in this paragraph as the "Division") that shall be made part of the Office of the Associate Administrator for Minority Small Business and Capital Ownership Development. The Division shall be headed by a Director who shall report directly to such Associate Administrator. The Division shall establish field offices within such regional offices of the Administration as may be necessary to perform efficiently its functions and responsibilities.

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"(F) Subject to the provisions of section 8(a)(9), the functions and responsibility of the Division are to—

"(i) receive, review and evaluate applications for certification pursuant to paragraphs (4), (5), (6) and (7) of section 8(a);

"(ii) advise each program applicant within 15 days after the receipt of an application as to whether such application is complete and suitable for evaluation and, if not, what matters must be rectified;

"(iii) render recommendations on such applications to the Associate Administrator for Minority Small Business and Capital Ownership Development;

"(iv) review and evaluate financial statements and other submissions from concerns participating in the program established by paragraph (10) to ascertain continued eligibility to receive subcontracts pursuant to section 8(a);

"(v) make a request for the initiation of termination or graduation proceedings, as appropriate, with the Associate Administrator for Minority Small Business and Capital Ownership Development;

"(vi) decide protests from applicants that have been denied program admission;

"(vii) decide protests regarding the status of a concern as a disadvantaged concern for purposes of any program or activity conducted under the authority of subsection (d) of section 8, or any other provision of Federal law that references such subsection for a definition of program eligibility; and

"(viii) implement such policy directives as may be issued by the Associate Administrator for Minority Small Business and Capital Ownership Development pursuant to subparagraph (H) regarding, among other things, the geographic distribution of concerns to be admitted to the program and the industrial make-up of such concerns.

"(G) An applicant shall not be denied admission into the program established by paragraph (10) due solely to a determination by the Division that specific contract opportunities are unavailable to assist in the development of such concern unless—

"(i) the Government has not previously procured and is unlikely to procure the types of products or services offered by the concern; or

"(ii) the purchases of such products or services by the Federal Government will not be in quantities sufficient to support the developmental needs of the applicant and other Program participants providing the same or similar items or services.

"(H) Thirty days before the conclusion of each fiscal year, the Director of the Division shall review all concerns that have been admitted into the Program during the preceding 12-month period. The review shall ascertain the number of entrants, their geographic distribution and industrial classification. The Director shall also estimate the expected growth of the Program during the next fiscal year and the number of additional Business Opportunity Specialists, if any, that will be needed to meet the anticipated demand for the Program. The findings and conclusions of the Director shall be reported to the Associate Administrator for Minority Small Business and Capital Ownership Development by September 30 of each year. Based on such report and such additional data as may be relevant, the Associate Administrator shall, by October 31 of each year, issue policy and program directives applicable to such fiscal year that—

Reports.

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"(i) establish priorities for the solicitation of program applications from underrepresented regions and industry categories;

"(ii) assign staffing levels and allocate other program resources as necessary to meet program needs; and

"(iii) establish priorities in the processing and admission of new Program Participants as may be necessary to achieve an equitable geographic distribution of concerns and a distribution of concerns across all industry categories in proportions needed to increase significantly contract awards to small business concerns owned and controlled by socially and economically disadvantaged individuals. When considering such increase the Administration shall give due consideration to those industrial categories where Federal purchases have been substantial but where the participation rate of such concerns has been limited.".

Employment and unemployment.

(b) OUTREACH.—Section 8(a)(10) of the Small Business Act (15 U.S.C. 637(a)(10)) is amended by adding at the end thereof the following: "Such program shall make a sustained and substantial effort to solicit applications for certification from small business concerns located in areas of concentrated unemployment or underemployment or within labor surplus areas and within States having relatively few Program Participants and from small disadvantaged business concerns in industry categories that have not substantially participated in the award of contracts let under the authority of this subsection.".

SEC. 202. TIME LIMITATIONS.

Section 7(j) of the Small Business Act (15 U.S.C. 636(j)) is further amended by adding the following new paragraph:

"(15) Subject to the provisions of paragraph (10)(C), a small business concern may receive developmental assistance under the Program and contracts under section 8(a) for a total period of not longer than nine years, measured from the date of its certification under the authority of such section, of which—

"(A) no more than four years may be spent in the developmental stage of Program Participation; and

"(B) no more than five years may be spent in the transitional stage of Program Participation.".

SEC. 203. GRANDFATHERING.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is amended by adding the following new subparagraph:

"(D)(i) A small business concern participating in any program or activity conducted under the authority of this paragraph or

eligible for the award of contracts pursuant to section 8(a) on September 1, 1988, shall be permitted continued participation and eligibility in such program or activity for a period of time which is the greater of—

"(I) 9 years less the number of years since the award of its first contract pursuant to section 8(a); or

"(II) its original fixed program participation term (plus any extension thereof) assigned prior to the effective date of this paragraph plus eighteen months.

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"(ii) Nothing contained in this subparagraph shall be deemed to prevent the Administration from instituting a termination or graduation pursuant to subparagraph (F) or (H) for issues unrelated to the expiration of any time period limitation.".

SEC. 204. BUSINESS DEVELOPMENT OBJECTIVES.

(a) PROGRAM PURPOSES.—(1) Section 2(c)(2)(B) of the Small Business Act (15 U.S.C. 631(c)(2)(B)) is amended to read as follows:

"(B) It is therefore the purpose of the programs authorized by section 7(j) of this Act to—

"(i) foster business ownership and development by individuals in groups that own and control little productive capital; and

"(ii) promote the competitive viability of such firms in the marketplace by creating a small business and capital ownership development program to provide such available financial, technical, and management assistance as may be necessary.".

(2) Section 2(e)(2) (15 U.S.C. 631(e)(2)) of the Act is amended to read as follows:

"(2) It is therefore the purpose of section 8(a) to—

"(A) promote the business development of small business concerns owned and controlled by socially and economically disadvantaged individuals so that such concerns can compete on an equal basis in the American economy;

"(B) promote the competitive viability of such concerns in the marketplace by providing such available contract, financial, technical, and mangement assistance as may be necessary; and

"(C) clarify and expand the program for the procurement by the United States of articles, supplies, services, materials, and construction work from small business concerns owned by socially and economically disadvantaged individuals.".

(b) TECHNICAL AMENDMENT.—Section 2(c)(2)(A)(v) of the Act is amended by striking "sole source".

SEC. 205. BUSINESS PLANS.

(a) IN GENERAL.—Section 7(j)(10)(A)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(A)(i)) is amended to read as follows:

"(i) assist small business concerns participating in the Program (either through public or private organizations) to develop and maintain comprehensive business plans which sets forth the Program Participant's specific business targets, objectives, and goals developed and maintained in conformity with subparagraph (D).".

(b) CONTENTS OF PLAN.—Section 7(j)(10) of such Act is further amended—

(1) by striking subparagraph (C),

(2) by redesignating subparagraph (D) (as added by section 203 of this Act) as subparagraph (C), and

(3) by adding after subparagraph (C), as redesignated, the following new subparagraph:

"(D)(i) Promptly after certification under paragraph (11) a Program Participant shall submit a business plan (hereinafter referred to as the "plan") as described in clause (ii) of this subparagraph for review by the business opportunity specialist assigned to assist such Program Participant. The plan may be a revision of a preliminary business plan submitted by the Program Participant or required by the Administration as a part of the application for certification under this section and shall be designed to result in the

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Program Participant eliminating the conditions or circumstances upon which the Administration determined eligibility pursuant to section 8(a)(6). Such plan, and subsequent modifications submitted under clause (iii) of this subparagraph, shall be approved by the business opportunity specialist prior to the Program Participant being eligible for award of a contract pursuant to section 8(a).

"(ii) The plans submitted under this subparagraph shall include the following:

"(I) An analysis of market potential, competitive environment, and other business analyses estimating the Program Participant's prospects for profitable operations during the term of program participation and after graduation.

"(II) An analysis of the Program Participant's strengths and weaknesses with particular attention to correcting any financial, managerial, technical, or personnel conditions which are likely to impede small business concerns from receiving contracts other than those awarded under section 8(a).

"(III) Specific targets, objectives, and goals, for the business development of the Program Participant during the next and succeeding years utilizing the results of the analyses conducted pursuant to subclauses (I) and (II).

"(IV) A transition management plan outlining specific steps to assure profitable business operations after graduation (to be incorporated into the Program Participant's plan during the first year of the transitional stage of Program participation).

"(V) Estimates of contract awards pursuant to section 8(a) and from other sources, which the Program Participant will require to meet the specific targets, objectives, and goals for the years covered by its plan. The estimates established shall be consistent with the provisions of subparagraph (I) and section 8(a).

"(iii) Each Program Participant shall annually review its currently approved plan with its Business Opportunity Specialist and modify such plan as may be appropriate. Any modified plan shall be submitted to the Administration for approval. The currently approved plan shall be considered valid until such time as a modified plan is approved by the Business Opportunity Specialist. Annual reviews pertaining to years in the transitional stage of program participation shall require, as appropriate, a written verification that such Program Participant has complied with the requirements of subparagraph (I).

"(iv) Each Program Participant shall annually forecast its needs for contact awards under section 8(a) for the next program year and the succeeding program year during the review of its business plan, conducted pursuant to clause (iii). Such forecast shall be known as the section 8(a) contract support level and shall be included in the Program Participant's business plan. Such forecast shall include—

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"(I) the aggregate dollar value of contract support to be sought on a noncompetitive basis under section 8(a), reflecting compliance with the requirements of subparagraph (I),

"(II) the types of contract opportunities being sought, identified by Standard Industrial Classification (SIC) Code or otherwise,

"(III) an estimate of the dollar value of contract support to be sought on a competitive basis, and

"(IV) such other information as may be requested by the Business Opportunity Specialist to provide effective business development assistance to the Program Participant.".

SEC. 206. ELIGIBILITY REVIEWS.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is further amended by adding at the end thereof the following new subparagraph:

"(J)(i) The Administration shall conduct an evaluation of a Program Participant's eligibility for continued participation in the Program whenever it receives specific and credible information alleging that such Program Participant no longer meets the requirements for Program eligibility. Upon making a finding that a Program Participant is no longer eligible, the Administration shall initiate a termination proceeding in accordance with subparagraph (F). A Program Participant's eligibility for award of any contract under the authority of section 8(a) may be suspended or terminated pursuant to subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation).

"(ii) Except as provided under section 602 of the Business Opportunity Development Reform Act of 1988, no award shall be made pursuant to section 8(a) to other than a small business concern.".

SEC. 207. ELIGIBILITY OF NATIVE HAWAIIANS.

(a) IN GENERAL.—Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended by adding the following new paragraph:

"(15) For purposes of this subsection, the term 'Native Hawaiian organizations' means any community service organization serving Native Hawaiians in the State of Hawaii which—

"(A) is a not-for-profit organization chartered by the State of Hawaii,

"(B) is controlled by Native Hawaiians, and

"(C) whose business activities will principally benefit such Native Hawaiians.".

(b) TECHNICAL AMENDMENT.—Section 2(e)(1)(C) of such Act (15 U.S.C. 631(e)(2)(C)) is amended by inserting "Native Hawaiian Organizations," after "Asian Pacific Americans,".

(c) CLARIFICATION OF DEFINITION OF "SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERN".—Paragraph (4) of section 8(a) of such Act (15 U.S.C. 637(a)(4)) is amended to read as follows:

"(4)(A) For purposes of this section, the term 'socially and economically disadvantaged small business concern' means any small business concern which meets the requirements of subparagraph (B) and—

"(i) which is at least 51 per centum owned by— 102 STAT. 3862

"(I) one or more socially and economically disadvantaged individuals,

"(II) an economically disadvantaged Indian tribe, or

"(III) an economically disadvantaged Native Hawaiian organization, or

"(ii) in the case of any publicly owned business at least 51 per centum of the stock of which is owned by—

"(I) one or more socially and economically disadvantaged individuals,

"(II) an economically disadvantaged Indian tribe, or

"(III) an economically disadvantaged Native Hawaiian organization.

"(B) A small business concern meets the requirements of this subparagraph if the management and daily business operations of such small business concern are controlled by one or more—

"(i) socially and economically disadvantaged individuals described in subparagraph (A)(i)(I) or subparagraph (A)(ii)(I),

"(ii) members of an economically disadvantaged Indian tribe described in subparagraph (A)(i)(II) or subparagraph (A)(ii)(II), or

"(iii) Native Hawaiian organizations described in subparagraph (A)(i)(III) or subparagraph (A)(ii)(III).".

SEC. 208. TERMINATION AND GRADUATION STANDARDS.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)), is further amended by adding at the end thereof the following new subparagraphs:

"(E) A small business concern participating in the program conducted under the authority of this paragraph and eligible for the award of contracts pursuant to section 8(a) shall be denied all such assistance if such concern—

"(i) voluntarily elects not to continue participation;

"(ii) participates in the Program for a period in excess of the time limits prescribed by paragraph (15);

"(iii) is terminated pursuant to a termination proceeding conducted in accordance with section 8(a)(9); or

"(iv) is graduated pursuant to a graduation proceeding conducted in accordance with section 8(a)(9).

"(F) For the purposes of sections 7(j) and 8(a), the terms 'terminated' or 'termination' shall mean the total denial

"(F) For the purposes of this Act, sections 7(j) and 8(a), the terms 'terminated' or 'termination' shall mean the total denial or suspension of assistance provided pursuant to this paragraph or section 8(a) prior to the graduation of the participating small business concern pursuant to subparagraph (H) or the expiration of the maximum program participation in terms prescribed by paragraph (15). An action for termination shall be based upon good cause, including—

"(i) the failure by such concern to maintain its eligibility for Program participation;

"(ii) the failure of the concern to engage in business practices that will promote its competitiveness within a reasonable period of time as evidenced by, among other indicators, a pattern of unjustified delinquent performance or terminations for default with respect to contracts awarded under the authority of section 8(a);

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"(iii) a demonstrated pattern of failing to make required submissions or responses to the Administration in a timely manner;

"(iv) the willful violation of any rule or regulation of the Administration pertaining to material issues;

"(v) the debarment of the concern or its disadvantaged owners by any agency pursuant to subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation); or

Fraud.
Law enforcement and crimes.

"(vi) the conviction of the disadvantaged owner or an officer of the concern for any offense indicating a lack of business integrity including any conviction for embezzlement, theft, forgery, bribery, falsification or violation of section 16. For purposes of this clause, no termination action shall be taken with respect to a disadvantaged owner solely because of the conviction of an officer of the concern (who is other than a disadvantaged owner) unless such owner conspired with, abetted, or otherwise knowingly acquiesced in the activity or omission that was the basis of such officer's conviction.

"(G) The Director of the Division may initiate a termination proceeding by recommending such action to the Associate Administrator for Minority Small Business and Capital Ownership Development. Whenever the Associate Administrator, or a designee of such officer, determines such termination is appropriate, within 15 days after making such a determination the Program Participant shall be provided a written notice of intent to terminate, specifying the reasons for such action. No Program Participant shall be terminated from the Program pursuant to subparagraph (F) without first being afforded an opportunity for a hearing in accordance with section 8(a)(9).

"(H) For the purposes of sections 7(j) and 8(a) the term 'graduated' or 'graduation' means that the Program Participant

is recognized as successfully completing the program by substantially achieving the targets, objectives, and goals contained in the concern's business plan thereby demonstrating its ability to compete in the marketplace without assistance under this section or section 8(a).".

SEC. 209. ECONOMIC DISADVANTAGE

(a) ECONOMIC DISADVANTAGE.—Section 8(a)(6) of the Small Business Act (15 U.S.C. 637(a)(6)) is amended—

(1) by striking out "(6)" and inserting in lieu thereof "(6)(A)", and

(2) by adding at the end the following new subparagraphs:

"(B) Each Program Participant shall annually submit to the Administration—

"(i) a personal financial statement for each disadvantaged owner;

"(ii) a record of all payments made by the Program Participant to each of its disadvantaged owners or to any person or entity affiliated with such owners; and Records.

"(iii) such other information as the Administration may deem necessary to make the determinations required by this paragraph.

"(C)(i) Whenever, on the basis of information provided by a Program Participant pursuant to subparagraph (B) or otherwise, the Administration has reason to believe that the standards to establish economic disadvantage pursuant to (A) have not been met, the Administration shall conduct a review to determine whether such Program Participant and its disadvantaged owners continue to be impaired in their ability to compete in the free enterprise system due to diminished capital and credit opportunities when compared to other concerns in the same business area, which are not socially disadvantaged. 102 STAT. 3864

"(ii) If the Administration determines, pursuant to such review, that a Program Participant and its disadvantaged owners are no longer economically disadvantaged for the purpose of receiving assistance under this subsection, the Program Participant shall be graduated pursuant to section 7(j)(10)(H) subject to the right to a hearing as provided for under paragraph (9).

"(D)(i) Whenever, on the basis of information provided by a Program Participant pursuant to subparagraph (B) or otherwise, the Administration has reason to believe that the amount of funds or other assets withdrawn from a Program Participant for the personal benefit of its disadvantaged owners or any person or entity affiliated with such owners may have been unduly excessive, the Administration shall conduct a review to determine whether such withdrawal of funds or other assets was detrimental to the achievement of the targets, objectives, and goals contained in such Program Participant's business plan.

"(ii) If the Administration determines, pursuant to such review, that funds or other assets have been withdrawn to the detriment of the Program Participant's business, the Administration shall—

"(I) initiate a proceeding to terminate the Program Participant pursuant to section 7(j)(10)(F), subject to the right to a hearing under paragraph (9); or

"(II) require an appropriate reinvestment of funds or other assets and such other steps as the Administration may deem necessary to ensure the protection of the concern.

"(E) Whenever the Administration computes personal net worth for any purpose under this paragraph, it shall exclude from such computation—

"(i) the value of investments that disadvantaged owners have in their concerns, except that such value shall be taken into account under this paragraph when comparing such concerns to other concerns in the same business area that are owned by other than socially disadvantaged persons;

"(ii) the equity that disadvantaged owners have in their primary personal residences, except that any portion of such equity that is attributable to unduly excessive withdrawals from a Program Participant or a concern applying for program participation shall be taken into account.".

(b) CERTIFICATION.—Section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)(A)) is further amended by adding the following new subparagraph:

"(C) Each Program Participant shall certify, on an annual basis, that it meets the requirements of this paragraph regarding ownership and control."

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TITLE III—BUSINESS DEVELOPMENT

SEC. 301. STAGES OF PROGRAM PARTICIPATION.

(a) IN GENERAL.—Section 7(j) of the Small Business Act (15 U.S.C. 636(j)) is amended by adding at the end thereof the following new paragraph:

"(12)(A) The Administration shall segment the Capital Ownership Development Program into two stages: a development stage; and a transitional stage.

"(B) The developmental stage of program participation shall be designed to assist the concern to overcome its economic disadvantage by providing such assistance as may be necessary and appropriate to access its markets and to strengthen its financial and managerial skills.

"(C) The transitional stage of program participation shall be designed to overcome, insofar as practicable, the remaining elements of economic disadvantage and to prepare such concern for graduation from the program.".

(b) DEVELOPMENTAL STAGE OF PROGRAM PARTICIPATION.—Such section is further amended by adding at the end thereof the following new paragraph:

"(13) A Program Participant, if otherwise eligible, shall be qualified to receive the following assistance during the stages of program participation specified in paragraph 12:

"(A) Contract support pursuant to section 8(a).

"(B) Financial assistance pursuant to section 7(a)(20).

"(C) A maximum of two exemptions from the requirements of section 1(a) of the Act entitled 'An Act providing conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (49 Stat. 2036), which exemptions shall apply only to contracts awarded pursuant to section (8)(a) and shall only be used to allow for contingent agreements by a small business concern to acquire the machinery, equipment, facilities, or labor needed to perform such contracts. No exemption shall be made pursuant to this subparagraph if the contract to which it pertains has an anticipated value in excess of $10,000,000. This subparagraph shall cease to be effective on October 1, 1992.

Termination date.

"(D) A maximum of five exemptions from the requirements of the Act entitled 'An Act requiring contracts for the construction, alteration and repair of any public building or public work of the United States to be accompanied by a performance bond protecting the United States and by an additional bond for the protection of persons furnishing material and labor for the construction, alteration, or repair of said public buildings or public works', approved August 24, 1935 (49 Stat. 793), which exemptions shall apply only to contracts awarded pursuant to section 8(a), except that, such exemptions may be granted under this subparagraph only if—

"(i) the Administration finds that such concern is unable to obtain the requisite bond or bonds from a surety and that no surety is willing to issue a bond subject to the guarantee provision of title IV of the Small Business Investment Act of 1958 (15 U.S.C. 692 et seq.);

"(ii) the Administration and the agency providing the contracting opportunity have provided for the protection of persons furnishing materials or labor to the Program Participant by arranging for the direct disbursement of funds due to such persons by the procuring agency or through any bank the deposits of which are insured by the Federal Deposit Insurance Corporation; and

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"(iii) the contract to which it pertains does not exceed $3,000,000 in amount. This subparagraph shall cease to be effective on October 1, 1992.

Termination date.

"(E) Financial assistance whereby the Administration may purchase in whole or in part, and on behalf of such concerns, skills training or upgrading for employees or potential employees of such concerns. Such financial assistance may be made without regard to section 18(a), shall be made by way of reimbursement to the training provider, and shall have such adjustments as may be necessary to provide for overpayments or underpayments. For purposes of this subparagraph the term 'training provider' shall mean an institution of higher education, a community or vocational college, or an institution eligible to provide skills training or upgrading under the Job Training Partnership Act (29 U.S.C. 1501 et seq.). The Administration shall, in consultation with the Secretary of Labor, promulgate rules and regulations to implement this subparagraph that establish acceptable training and upgrading performance standards and provide for such monitoring or audit requirements as may be necessary to ensure the integrity of the training effort. No financial assistance shall be granted under the subparagraph unless the Administrator determines that—

Regulations.

"(i) such concern has documented that it has first explored the use of existing cost-free or cost-subsidized training programs offered by public and private sector agencies working with programs of employment and training and economic development;

"(ii) no more than five employees or potential employees of such concern are recipients of any benefits under this subparagraph at any one time;

"(iii) no more than $2,500 shall be made available for any one employee or potential employee;

"(iv) the length of training or upgrading financed by this subparagraph shall be no less than one month nor more than six months;

"(v) such concern has given adequate assurance it will employ the trainee or upgraded employee for at least six months after the training or upgrading financed by this subparagraph has been completed and each trainee or upgraded employee has provided a similar assurance to remain within the employ of such concern for such period; if such concern, trainee, or upgraded employee breaches this agreement, the Administration shall be entitled to and shall make diligent efforts to obtain from the violating party the repayment of all funds expended on behalf of the violating party, such repayment shall be made to the Administration together with such interest and costs of collection as may be reasonable; the violating party shall be barred from receiving any further assistance under this subparagraph;

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"(vi) the training to be financed may take place either at such concern's facilities or at those of the training provider; and

"(vii) such concern will maintain such records as the Administration deems appropriate to ensure that the provisions of this paragraph and any other applicable law have not been violated.

Records.

"(F) The transfer of technology or surplus property owned by the United States to such a concern. Activities designed to effect

Science and technology.
Real property.

such transfer shall be developed in cooperation with the heads of Federal agencies and shall include the transfer by grant, license, or sale of such technology or property to such a concern. Such property may be transferred to Program Participants on a priority basis. Technology or property transferred under this subparagraph shall be used by the concern during the normal conduct of its business operation and shall not be sold or transferred to any other party (other than the Government) during such concern's term of participation in the Program and for one year thereafter.

"(G) Training assistance whereby the Administration shall conduct training sessions to assist individuals and enterprises eligible to receive contracts under section 8(a) in the development of business principles and strategies to enhance their ability to successfully compete for contracts in the marketplace.

"(H) Joint ventures, leader-follower arrangements, and teaming agreements between the Program Participant and other Program Participants and other business concerns with respect to contracting opportunities for the research, development, full-scale engineering or production of major systems. Such activities shall be undertaken on the basis of programs developed by the agency responsible for the procurement of the major system, with the assistance of the Administration.

"(I) Transitional management business planning training and technical assistance.

"(J) Program Participants in the developmental stage of Program participation shall be eligible for the assistance provided by subparagraphs (A), (B), (C), (D), (E), (F), and (G).

(c) TRANSITIONAL STAGE OF PROGRAM PARTICIPATION.—Such section is further amended by adding at the end the following new paragraph:

"(14) Program Participants in the transitional stage of Program participation shall be eligible for the assistance provided by subparagraphs (A), (B), (F), (G), (H), and (I) of paragraph (13).

SEC. 302. LOANS.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end thereof the following new paragraph:

Banks and banking.

"(20)(A) The Administration is empowered to make loans either directly or in cooperation with banks or other financial institutions through agreements to participate on an immediate or deferred (guaranteed) basis to small business concerns eligible for assistance under subsection (j)(10) and section 8(a). Such assistance may be provided only if the Administration determines that—

"(i) the type and amount of such assistance requested by such concern is not otherwise available on reasonable terms from other sources;

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"(ii) with such assistance such concern has a reasonable prospect for operating soundly and profitably within a reasonable period of time;

"(iii) the proceeds of such assistance will be used within a reasonable time for plant construction, conversion, or expansion, including the acquisition of equipment, facilities, machinery, supplies, or material or to supply such concern with working capital to be used in the manufacture of articles, equipment, supplies, or material for defense or civilian production or as may be necessary to insure a well-balanced national economy; and

"(iv) such assistance is of such sound value as reasonably to assure that the terms under which it is provided will not be breached by the small business concern.

"(B)(i) No loan shall be made under this paragraph if the total amount outstanding and committed (by participation or otherwise) to the borrower would exceed $750,000.

"(ii) Subject to the provisions of clause (i), in agreements to participate in loans on a deferred (guaranteed) basis, participation by the Administration shall be not less than 85 per centum of the balance of the financing outstanding at the time of disbursement.

"(iii) The rate of interest on financings made on a deferred (guaranteed) basis shall be legal and reasonable.

"(iv) Financings made pursuant to this paragraph shall be subject to the following limitations:

"(I) No immediate participation may be purchased unless it is shown that a deferred participation is not available.

"(II) No direct financing may be made unless it is shown that a participation is unavailable.

"(C) A direct loan or the Administration's share of an immediate participation loan made pursuant to this paragraph shall be any secured debt instrument—

"(i) that is subordinated by its terms to all other borrowings of the issuer;

"(ii) the rate of interest on which shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loan and adjusted to the nearest one-eighth of 1 per centum;

"(iii) the term of which is not more than twenty-five years; and

"(iv) the principal on which amortized at such rate as may be deemed appropriate by the Administration, and the interest on which is payable not less often than annually.".

SEC. 303. CONTRACTUAL ASSISTANCE.

(a) COMPETITIVE BUSINESS MIX.—Section 7(j)(10) of the Small Business Act (15 U.S.C. 363(j)(10)), is further amended by adding at the end thereof the following new subparagraph: 15 USC 636.

"(i) During the developmental stage of its participation in the Program, a Program Participant shall take all reasonable efforts within its control to attain the targets contained in its business plan for contracts awarded other than pursuant to section 8(a) (hereinafter referred to as 'business activity targets.'). Such efforts shall be made a part of the business plan and shall be sufficient in scope and duration to satisfy the Administration that the Program Participant will engage a reasonable marketing strategy that will maximize its potential to achieve its business activity targets. Marketing.

102 STAT. 3869

"(ii) During the transitional stage of the Program a Program Participant shall be subject to regulations regarding business activity targets that are promulgated by the Administration pursuant to clause (iii). Regulations.

"(iii) The regulations referred to in clause (ii) shall:

"(I) establish business activity targets applicable to Program Participants during the fifth year and each succeeding year of Program Participation; such targets, for such period of time, shall reflect a reasonably consistent increase in contracts awarded other than pursuant to section 8(a), expressed as a percentage of total sales; when promulgating business activity targets the Administration may establish modified targets for Program Participants that have participated in the Program for a period of longer than four years on the effective date of this subparagraph;

"(II) require a Program Participant to attain its business activity targets;

"(III) provide that, before the receipt of any contract to be awarded pursuant to section 8(a), the Program Participant (if it is in the transitional stage) must certify that it has complied with the regulations promulgated pursuant to subclause (II), or that it is in compliance with such remedial measures as may have been ordered pursuant to regulations issued under subclause (V);

"(IV) require the Administration to review each Program Participant's performance regarding attainment of business activity targets during periodic reviews of such Participant's business plan; and

"(V) authorize the Administration to take appropriate remedial measures with respect to a Program Participant that has failed to attain a required business activity target for the purpose of reducing such Participant's dependence on contracts awarded pursuant to section 8(a); such remedial actions may include, but are not limited to assisting the Program Participant to expand the dollar volume of its competitive business activity or limiting the dollar volume of contracts awarded to the Program Participant pursuant to section 8(a); except for actions that would constitute a termination, remedial measures taken pursuant to this subclause shall not be reviewable pursuant to section 8(a)(9).".

(b) COMPETITIVE THRESHOLDS.—Section 8(a)(1) of the Act (15 U.S.C. 637(a)(1)) is amended by adding at the end thereof the following new subparagraph:

"(D)(i) A contract opportunity offered for award pursuant to this subsection shall be awarded on the basis of competition restricted to eligible program participants if—

"(I) there is a reasonable expectation that at least two eligible Program Participants will submit offers and that award can be made at a fair market price, and

"(II) the anticipated award price of the contract (including options) will exceed $5,000,000 in the case of a contract opportunity assigned a standard industrial classification code for manufacturing and $3,000,000 (including options) in the case of all other contract opportunities.

102 STAT. 3870

"(ii) The Associate Administrator for Minority Small Business and Capital Ownership Development, on a nondelegable basis, is authorized to approve a request from an agency to award a contract opportunity under this subsection on the basis of a competition restricted to eligible Program Participants even if the anticipated award price is not expected to exceed the dollar amounts specified in clause (i)(II). Such approvals shall be granted only on a limited basis.".

(c) CONTRACT MATCHING.—Section 8(a) of the Act (15 U.S.C. 637(a)), is further amended by adding at the end thereof the following new paragraph:

"(16)(A) The Administration shall award sole source contracts under this section to any small business concern recommended by the procuring agency offering the contract opportunity if—

"(i) the Program Participant is determined to be a responsible contractor with respect to performance of such contract opportunity;

"(ii) the award of such contract would be consistent with the Program Participant's business plan; and

"(iii) the award of the contract would not result in the Program Participant exceeding the requirements established by section 7(j)(10)(I).

"(B) To the maximum extent practicable, the Administration shall promote the equitable geographic distribution of sole source contracts awarded pursuant to this subsection.".

(d) CONTRACT SELECTION APPEALS AND DOCUMENTATION.—Section 8(a)(1)(A) of the Small Business Act (15 U.S.C. 637(a)(1)(A)) is amended by inserting after the sentence ending "the Administrator." the following: "Not later than 5 days from the date the Administration is notified of a procurement officer's adverse decision, the Administration may notify the contracting officer of the intent to appeal such adverse decision, and within 15 days of such date the Administrator shall file a written request for a reconsideration of the adverse decision with the Secretary of the department or agency head. For the purposes of this subparagraph, a procurement officer's adverse decision includes a decision not to make available for award

pursuant to this subsection a particular procurement requirement or the failure to agree on the terms and conditions of a contract to be awarded noncompetitively under the authority of this subsection. Upon receipt of the notice of intent to appeal, the Secretary of the department or the agency head shall suspend further action regarding the procurement until a written decision on the Administrator's request for reconsideration has been issued by such Secretary or agency head, unless such officer makes a written determination that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for a reconsideration of the adverse decision. If the Administrator's request for reconsideration is denied, the Secretary of the department or agency head shall specify the reasons why the selected firm was determined to be incapable to perform the procurement requirement, and the findings supporting such determination, which shall be made a part of the contract file for the requirement.".

(e) FAIR MARKET PRICE.—Section 8(a)(3) of the Act (15 U.S.C. 637(a)(3)) is amended to read as follows:

"(3)(A) Any Program Participant selected by the Administration to perform a contract to be let noncompetitively pursuant to this subsection shall, when practicable, participate in any negotiation of the terms and conditions of such contract. 102 STAT. 3871

"(B)(i) For purposes of paragraph (1) a 'fair market price' shall be determined by the agency offering the procurement requirement to the Administration, in accordance with clauses (ii) and (iii).

"(ii) The estimate of a current fair market price for a new procurement requirement, or a requirement that does not have a satisfactory procurement history, shall be derived from a price or cost analysis. Such analysis may take into account prevailing market conditions, commercial prices for similar products or services, or data obtained from any other agency. Such analysis shall consider such cost or pricing data as may be timely submitted by the Administration.

"(iii) The estimate of a current fair market price for a procurement requirement that has a satisfactory procurement history shall be based on recent award prices adjusted to insure comparability. Such adjustments shall take into account differences in quantities, performance times, plans, specifications, transportation costs, packaging and packing costs, labor and materials costs, overhead costs, and any other additional costs which may be deemed appropriate.

"(C) An agency offering a procurement requirement for potential award pursuant to this subsection shall, upon the request of the Administration, promptly submit to the Administration a written statement detailing the method used by the agency to estimate the current fair market price for such contract, identifying the information, studies, analyses, and other data used by such agency. The agency's estimate of the current fair market price (and any supporting data furnished to the Administration) shall not be disclosed to any potential offeror (other than the Administration).

"(D) A small business concern selected by the Administration to perform or negotiate a contract to be let pursuant to this subsection may request the Administration to protest the agency's estimate of the fair market price for such contract pursuant to paragraph (1)(A).".

(f) OPTIONS.—(1) The Small Business Administration shall make substantial and sustained efforts to achieve a maximum ten-day period as the average processing time for approving options and modifications to contracts awarded pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and submitted to such Administration for approval. 15 USC 637 note.

(2) Within sixty days after the date of enactment of this Act, the Small Business Administration, and the appropriate Federal agency, shall make substantial and sustained efforts to negotiate contract modifications for fair market price for any and all unpriced options contained in contracts previously awarded pursuant to sec-

tion 8(a) of the Small Business Act (15 U.S.C. 637(a)) with the contractor that was initially awarded such contract.

(3) During the period of time described in paragraph (2), such agencies shall refrain from procuring such requirements from alternative sources except that, no delay may be incurred pursuant to this paragraph that would cause substantial harm to a public interest.

Federal Register, publication.

(4) The Small Business Administration shall take appropriate actions, including publication in the Federal Register, to advise small business concerns and Federal agencies of the requirements of this subsection.

102 STAT. 3872

(5) The Administration shall, to the maximum extent practicable, minimize delay, eliminate excess regulation, and require only such paperwork as may be necessary to effect the orderly and efficient management of the Program established by section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) and the award of contracts pursuant to section 8(a) of such Act (15 U.S.C. 637(a)).

(g) STANDARD INDUSTRIAL CLASSIFICATION CODE LIMITATIONS.—Section 8(a)(7) of the Act (15 U.S.C. 637(a)(7)) is amended by—

(1) inserting "(A)" after "(7)"; and

(2) adding the following new subparagraph:

"(B) Limitations established by the Administration in its regulations and procedures restricting the award of contracts pursuant to this subsection to a limited number of standard industrial classification codes in an approved business plan shall not be applied in a manner that inhibits the logical business progression by a participating small business concern into areas of industrial endeavor where such concern has the potential for success.".

(h) NON-MANUFACTURER RULE.—Section 8(a) of the Act (15 U.S.C. 637(a)) is further amended by adding the following new paragraph:

"(17)(A) An otherwise responsible business concern that is in compliance with the requirements of subparagraph (B) shall not be denied the opportunity to submit and have considered its offer for any procurement contract for the supply of a product to be let pursuant to this subsection or subsection (a) of section 15 solely because such concern is other than the actual manufacturer or processor of the product to be supplied under the contract.

"(B) To be in compliance with the requirements referred to in subparagraph (A), such a business concern shall—

"(i) be primarily engaged in the wholesale or retail trade;

"(ii) be a regular dealer, as defined pursuant to section 35(a) of title 41, United States Code (popularly referred to as the Walsh-Healey Public Contracts Act), in the product to be offered the Government or be specifically exempted from such section by section 7(j)(13)(C); and

"(iii) represent that it will supply the product of a domestic small business manufacturer or processor, except that, the Administrator may waive the application of the clause, as it pertains to the furnishing of a product manufactured or processed by a small business, for any class of products for which there are no small business manufacturers or processors in the Federal market."

SEC. 304. SUBCONTRACTING ASSISTANCE.

(a) ENCOURAGING COMPLIANCE.—Section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)) is amended by adding at the end thereof the following new subparagraph:

"(F)(i) Each contract subject to the requirements of this paragraph or paragraph (5) shall contain a clause for the payment of liquidated damages upon a finding that a prime contractor has failed to make a good faith effort to comply with the requirements imposed on such contractor by this subsection.

"(ii) The contractor shall be afforded an opportunity to demonstrate a good faith effort regarding compliance prior to the contracting officer's final decision regarding the impositon of damages and the amount thereof. The final decision of a contracting officer regarding the contractor's obligation to pay such damages, or

the amounts thereof, shall be subject to the Contract Disputes Act of 1978 (41 U.S.C. 601-613). 102 STAT. 3873

"(iii) Each agency shall ensure that the goals offered by the apparent successful bidder or offeror are attainable in relation to—

"(I) the subcontracting opportunities available to the contractor, commensurate with the efficient and economical performance of the contract;

"(II) the pool of eligible subcontractors available to fulfill the subcontracting opportunities; and

"(III) the actual performance of such contractor in fulfilling the subcontracting goals specified in prior plans.".

(b) LIQUIDATED DAMAGES CLAUSE.—The contract clause required by section 8(d)(4)(F) of the Small Business Act (as added by subsection (a)) shall be made part of the Federal Acquisition Regulation and promulgated pursuant to section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b). 15 USC 637 note.

TITLE IV—IMPROVED MANAGEMENT AND PROGRAM INTEGRITY

SEC. 401. STATUS OF THE ASSOCIATE ADMINISTRATOR FOR MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT.

(a) IN GENERAL.—In Section 4(b)(1) of the Small Business Act (15 U.S.C. 633(b)(1)) is amended by inserting immediately after "Associate Administrator for Minority Small Business and Capital Ownership Development" the following: "who shall be an employee in the competitive service or in the Senior Executive Service and a career appointee".

(b) CAREER POSITION.—The position of Associate Administrator for Minority Small Business and Capital Ownership Development referred to in paragraph (1) of section 4(b) of the Act shall be a career reserved position. 15 USC 633 note.

SEC. 402. PROHIBITED ACTIONS AND EMPLOYEE RESPONSIBILITIES.

Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is further amended by adding at the end thereof the following new paragraph:

"(18)(A) No person within the employ of the Administration shall, during the term of such employment and for a period of two years after such employment has been terminated, engage in any activity or transaction specified in subparagraph (B) with respect to any Program Participant certified during such person's term of employment, if such person participated personally (either directly or indirectly) in decision-making responsibilities relating to such Program Participant or with respect to the administration of any assistance provided to Program Participants generally under this subsection, section 7(j)(10), or section 7(a)(20).

"(B) The activities and transactions prohibited by subparagraph (A) include—

"(i) the buying, selling, or receiving (except by inheritance) of any legal or beneficial ownership of stock or any other ownership interest or the right to acquire any such interest;

"(ii) the entering into or execution of any written or oral agreement (whether or not legally enforceable) to purchase or otherwise obtain any right or interest described in clause (i); or

"(iii) the receipt of any other benefit or right that may be an incident of ownership. 102 STAT. 3874

"(C)(i) The employees designated in clause (ii) shall annually submit a written certification to the Administration regarding compliance with the requirements of this paragraph.

"(ii) The employees referred to in clause (i) are—

"(I) regional administrators;

"(II) district directors;

"(III) the Associate Administrator for Minority Small Business and Capital Ownership Development;

"(IV) employees whose principal duties relate to the award of contracts or the provision of other assistance pursuant to this subsection or section 7(j)(10); and

"(V) such other employees as the Administrator may deem appropriate.

Law enforcement and crime.

"(iii) Any present or former employee of the Administration who violates this paragraph shall be subject to a civil penalty, assessed by the Attorney General, that shall not exceed 300 per centum of the maximum amount of gain such employee realized or could have realized as a result of engaging in those activities and transactions prescribed by subparagraph (B).

"(iv) In addition to any other remedy or sanction provided for under law or regulation, any person who falsely certifies pursuant to clause (i) shall be subject to a civil penalty under the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801–3812)."

SEC. 403. POLITICALLY MOTIVATED ACTIVITIES.

Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended by adding at the end the following:

"(19)(A) Any employee of the Administration who has authority to take, direct others to take, recommend, or approve any action with respect to any program or activity conducted pursuant to this subsection or section 7(j), shall not, with respect to any such action, exercise or threaten to exercise such authority on the basis of the political activity or affiliation of any party. Employees of the Administration shall expeditiously report to the Inspector General of the Administration any such action for which such employee's participation has been solicitated or directed.

"(B) Any employee who willfully and knowingly violates subparagraph (A) shall be subject to disciplinary action, imposed by the Administrator, which may consist of separation from service, reduction in grade, suspension, or reprimand.

"(C) Subparagraph (A) shall not apply to any action taken as a penalty or other enforcement of a violation of any law, rule, or regulation prohibiting or restricting political activity.

"(D) The prohibitions of subparagraph (A), and remedial measures provided for under subparagraphs (B) and (C) with regard to such prohibitions, shall be in addition to, and not in lieu of, any other prohibitions, measures or liabilities that may arise under any other provision of law.".

SEC. 404. REPORTS BY PROGRAM PARTICIPANTS.

Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is further amended by adding at the end thereof the following new paragraph:

"(20)(A) Small business concerns participating in the Program under section 7(j)(10) and eligible to receive contracts pursuant to this section shall semiannually report to their assigned business opportunity specialist the following:

102 STAT. 3875

"(i) A listing of any agents, representatives, attorneys, accountants, consultants, and other parties (other than employees) receiving compensation to assist in obtaining a Federal contract for such Program Participant.

"(ii) The amount of compensation received by any person listed under clause (i) during the relevant reporting period and a description of the activities performed in return for such compensation.

"(B) The Business Opportunity Specialist shall promptly review and forward such report to the Associate Administrator for Minority Small Business and Capital Ownership Development. Any report that raises a suspicion of improper activity shall be reported immediately to the Inspector General of the Administration.

"(C) The failure to submit a report pursuant to the requirements of this subsection and applicable regulations shall be considered 'good cause' for the initiation of a termination proceeding pursuant to section 7(j)(10)(F).".

SEC. 405. FALSE REPRESENTATIONS.

(a) PENALTY FOR MISREPRESENTATION.—Section 16(d) of the Small Business Act (15 U.S.C. 645(d)) is amended to read as follows:

"(d)(1) Whoever misrepresents the status of any concern or person as a 'small business concern' or 'small business concern owned and controlled by socially and economically disadvantaged individuals', in order to obtain for oneself or another any—

"(A) prime contract to be awarded pursuant to section 9 or 15;

"(B) subcontract to be awarded pursuant to section 8(a);

"(C) subcontract that is to be included as part or all of a goal contained in a subcontracting plan required pursuant to section 8(d); or

"(D) prime or subcontract to be awarded as a result, or in furtherance, of any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall be subject to the penalties and remedies described in paragraph (2).

"(2) Any person who violates paragraph (1) shall—

"(A) be punished by a fine of not more than $500,000 or by imprisonment for not more than 10 years, or both;

"(B) be subject to the administrative remedies prescribed by the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801–3812);

"(C) be subject to suspension and debarment as specified in subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) on the basis that such misrepresentation indicates a lack of business integrity that seriously and directly affects the present responsibility to perform any contract awarded by the Federal Government or a subcontract under such a contract; and

"(D) be ineligible for participation in any program or activity conducted under the authority of this Act or the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) for a period not to exceed 3 years.".

(b) MISREPRESENTATION OF SECTION 7 COMPLIANCE.—Section 16 of the Small Business Act (15 U.S.C. 645) is amended by adding at the end thereof the following new subsection:

102 STAT. 3876

"(f) Whoever falsely certifies past compliance with the requirements of section 7(j)(10)(I) of this Act shall be subject to the penalties prescribed in subsection (d).".

SEC. 406. CONGRESSIONALLY REQUESTED INVESTIGATIONS.

(e) INSPECTOR GENERAL INVESTIGATIONS.—Section 10(e) of the Small Business Act (15 U.S.C. 639(e)) is amended by—

(1) inserting "and the Inspector General of the Administration" immediately after "Administration", and

(2) adding the following new paragraph:

"(2) The Committee on Small Business of either the Senate or the House of Representatives may request that the Office of the Inspector General of the Administration conduct an investigation of any program or activity conducted under the authority of section 7(j) or 8(a). Not later than thirty days after the receipt of such a request, the Inspector General shall inform the committee, in writing of the disposition of the matter by such office.".

SEC. 407. CONTRACT PERFORMANCE.

Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is further amended by adding the following new paragraph:

"(21)(A) Subject to the provisions of subparagraph (B), a contract (including options) awarded pursuant to this subsection shall be performed by the concern that initially received such contract. Notwithstanding the provisions of the preceding sentence, if the owner or owners upon whom eligibility was based relinquish ownership or control of such concern, or enter into any agreement to relinquish such ownership or control, such contract or option shall be terminated for the convenience of the Government, except that

no repurchase costs or other damages may be assessed against such concerns due solely to the provisions of this subparagraph.

"(B) The Administrator may, as a matter of discretion and on a nondelegable basis, waive the requirements of subparagraph (A) if requested to do so prior to the actual relinquishment of ownership or control. In addition to the requirement of the preceding sentence, a waiver may be given only if any of the following conditions exist:

"(i) When it is necessary for the owners of the concern to surrender partial control of such concern on a temporary basis in order to obtain equity financing.

"(ii) The head of the contracting agency for which the contract is being performed certifies that termination of the contract would severely impair attainment of the agency's program objectives or missions;

"(iii) Ownership and control of the concern that is performing the contract will pass to another small business concern that is a program participant, but only if the acquiring firm would otherwise be eligible to receive the award directly pursuant to subsection (a);

"(iv) The individuals upon whom eligibility was based are no longer able to exercise control of the concern due to incapacity or death; or

Securities.

"(v) When, in order to raise equity capital, it is necessary for the disadvantaged owners of the concern to relinquish ownership of a majority of the voting stock of such concern, but only if—

"(I) such concern has exited the Capital Ownership Development Program;

102 STAT. 3877

"(II) the disadvantaged owners will maintain ownership of the largest single outstanding block of voting stock (including stock held by affiliated parties); and

"(III) the disadvantaged owners will maintain control of daily business operations.

"(C) Concerns performing contracts awarded pursuant to this subsection shall be required to notify the Administration immediately upon entering an agreement (either oral or in writing) to transfer all or part of its stock or other ownership interest to any other party.

"(D) Notwithstanding any other provision of law, for the purposes of determining ownership and control of a concern under this section, any potential ownership interests held by investment companies licensed under the Small Business Investment Act of 1958 shall be treated in the same manner as interests held by the individuals upon whom eligibility is based.".

SEC. 408. DATA COLLECTION.

Section 7(j) of the Small Business Act (15 U.S.C. 636(j)) is further amended by adding the following new paragraph:

"(16)(A) The Administrator shall develop and implement a process for the systematic collection of data on the operations of the Program established pursuant to paragraph (10).

Reports.

"(B) Not later than April 30 of each year, the Administrator shall submit a report to the Congress on the Program that shall include the following:

"(i) The average personal net worth of individuals who own and control concerns that were initially certified for participation in the Program during the immediately preceding fiscal year. The Administrator shall also indicate the dollar distribution of net worths, at $50,000 increments, of all such individuals found to be socially and economically disadvantaged. For the first report required pursuant to this paragraph the Administrator shall also provide the data specified in the preceding sentence for all eligible individuals in the Program as of the effective date of this paragraph.

"(ii) A description and estimate of the benefits and costs that have accrued to the economy and the Government in the imme-

diately preceding fiscal year due to the operations of those business concerns that were performing contracts awarded pursuant to section 8(a).

"(iii) A compilation and evaluation of those business concerns that have exited the Program during the immediately preceding three fiscal years. Such compilation and evaluation shall detail the number of concerns actively engaged in business operations, those that have ceased or substantially curtailed such operations, including the reasons for such actions, and those concerns that have been acquired by other firms or organizations owned and controlled by other than socially and economically disadvantaged individuals. For those businesses that have continued operations after they exited from the Program, the Administrator shall also separately detail the benefits and costs that have accrued to the economy during the immediately preceding fiscal year due to the operations of such concerns.

"(iv) A listing of all participants in the Program during the preceding fiscal year identifying, by State and by Region, for each firm: the name of the concern, the race or ethnicity, and gender of the disadvantaged owners, the dollar value of all contracts received in the preceding year, the dollar amount of advance payments received by each concern pursuant to contracts awarded under section 8(a), and a description including (if appropriate) an estimate of the dollar value of all benefits received pursuant to paragraphs (13) and (14) and section 7(a)(20) during such year. 102 STAT. 3878

"(v) The total dollar value of contracts and options awarded during the preceding fiscal year pursuant to section 8(a) and such amount expressed as a percentage of total sales of (I) all firms participating in the Program during such year; and (II) of firms in each of the nine years of program participation.

"(vi) A description of such additional resources or program authorities as may be required to provide the types of services needed over the next two-year period to service the expected portfolio of firms certified pursuant to section 8(a).

"(vii) The total dollar value of contracts and options awarded pursuant to section 8(a), at such dollar increments as the Administrator deems appropriate, for each four digit standard industrial classification code under which such contracts and options were classified.

"(C) The first report required by subparagraph (B) shall pertain to fiscal year 1990.".

SEC. 409. DUE PROCESS RIGHTS.

Paragraph (9) of section 8(a) of the Small Business Act (15 U.S.C. 637(a)(9)) is amended to read as follows:

"(9)(A) Subject to the provisions of subparagraph (E), the Administrator, prior to taking any action described in subparagraph (B), shall provide the small business concern that is the subject of such action, an opportunity for a hearing on the record, in accordance with chapter 5 of title 5, United States Code.

"(B) The actions referred to in subparagraph (A) are—

"(i) denial of program admission based upon a negative determination pursuant to paragraph (4), (5), or (6);

"(ii) a termination pursuant to section 7(j)(10)(F);

"(iii) a graduation pursuant to section 7(j)(10)(H); and

"(iv) the denial of a request to issue a waiver pursuant to paragraph (21)(B).

"(C) The Administrator's proposed action, in any proceeding conducted under the authority of this paragraph, shall be sustained unless it is found to be arbitrary, capricious, or contrary to law.

"(D) A decision rendered pursuant to this paragraph shall be the final decision of the Administration and shall be binding upon the Administration and those within its employ.

"(E) The adjudicator selected to preside over a proceeding conducted under the authority of this paragraph shall decline to accept jurisdiction over any matter that—

"(i) does not, on its face, allege facts that, if proven to be true, would warrant reversal or modification of the Administration's position;

"(ii) is untimely filed;

"(iii) is not filed in accordance with the rules of procedure governing such proceedings; or

"(iv) has been decided by or is the subject of an adjudication before a court of competent jurisdiction over such matters.

102 STAT. 3879

"(F) Proceedings conducted pursuant to the authority of this paragraph shall be completed and a decision rendered, insofar as practicable, within ninety days after a petition for a hearing is filed with the adjudicating office.".

15 USC 636 note.

SEC. 410. EMPLOYEE TRAINING AND EVALUATION.

(a) TRAINING REQUIREMENTS FOR BUSINESS SPECIALISTS.—(1) In each Small Business Administration field office responsible for assisting one or more Program Participants there shall be a position designated as a Business Opportunity Specialist. To the maximum extent practicable the Administration shall assure that an adequate number of Business Opportunity Specialists are assigned to each district office to carry out the responsibilities of sections 7(j) and 8(a) of the Small Business Act (15 U.S.C. 636(j), 637(a)) and to assist Program Participants.

(2) The Administration shall take such actions as may be appropriate to ensure that any person employed as a Business Opportunity Specialist receives adequate periodic training to assure such employee is capable of assisting Program Participants to fully utilize the Program and to meet the requirements of the Small Business Act, as amended by this Act.

(b) PILOT PROGRAM.—(1) Within 180 days after the effective date of this subsection the Administrator shall designate three regions of the Administration to conduct a pilot program pursuant to the provisions of this subsection. The designated regions shall contain approximately 30 per centum of the total number of Program Participants as of the time of designation.

(2) A Business Opportunity Specialist employed in a Region designated pursuant to paragraph (1), in addition to other assigned duties and responsibilities, shall—

(A) conduct contract negotiations on behalf of the Administration for contracts awarded pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) when performance will be rendered by one or more firms in such Specialist's assigned portfolio;

(B) facilitate and otherwise assist such firms in negotiating for the receipt of contracts to be let pursuant to such section.

(3) The Administration shall take such actions as may be appropriate to train and qualify such Specialists to perform the negotiations required pursuant to paragraph (2).

(4) To the extent practicable, the Administrator shall ensure that the performance appraisal system applicable to a Business Opportunity Specialist employed in a region designated pursuant to paragraph (1) affords substantial recognition to how well such Specialist's assigned portfolio of concerns participating in the program established by section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) are achieving competitiveness and furthering the business development purposes of the program.

(5) The Administration shall establish personnel positions for Business Opportunity Specialists employed in the regions designated pursuant to paragraph (1) that are classified at a grade level of the General Schedule that are sufficient, in the opinion of the Administrator, to attract and retain highly qualified personnel.

(c) REPORT AND PILOT PROGRAM TERMINATION.—(1) Within 120 days after the termination of the pilot program conducted pursuant to subsection (b), the Administration shall issue a report to the Committees on Small Business of the Senate and of the House of

Representatives on the effectiveness of the pilot. Such report shall contain such recommendations for administrative or legislative change as may be appropriate. 102 STAT. 3880

(2) The pilot program conducted pursuant to subsection (a) shall be terminated three years after the date on which the Committees on Small Business of the Senate and of the House of Representatives receive written notification from the Administrator that the pilot is in full operation in each of the three designated pilot regions.

TITLE V—CONTRACT PLANNING; GOAL SETTING AND REVIEWS

SEC. 501. PLANNING SECTION 8(a) CONTRACT ACTIVITY.

Section 8(a)(12) of the Small Business Act (15 U.S.C. 637(a)(12)) is amended to read as follows:

"(12)(A) The Administration shall require each concern eligible to receive subcontracts pursuant to this subsection to annually prepare and submit to the Administration a capability statement. Such statement shall briefly describe such concern's various contract performance capabilities and shall contain the name and telephone number of the Business Opportunity Specialist assigned such concern. The Administration shall separate such statements by those primarily dependent upon local contract support and those primarily requiring a national marketing effort. Statements primarily dependent upon local contract support shall be disseminated to appropriate buying activities in the marketing area of the concern. The remaining statements shall be disseminated to the Directors of Small and Disadvantaged Business Utilization for the appropriate agencies who shall further distribute such statements to buying activities with such agencies that may purchase the types of items or services described on the capability statements.

"(B) Contracting activities receiving capability statements shall, within 60 days after receipt, contact the relevant Business Opportunity Specialist to indicate the number, type, and approximate dollar value of contract opportunities that such activities may be awarding over the succeeding 12-month period and which may be appropriate to consider for award to those concerns for which it has received capability statements.

"(C) Each executive agency reporting to the Federal Procurement Data System contract actions with an aggregate value in excess of $50,000,000 in fiscal year 1988, or in any succeeding fiscal year, shall prepare a forecast of expected contract opportunities or classes of contract opportunities for the next and succeeding fiscal years that small business concerns, including those owned and controlled by socially and economically disadvantaged individuals, are capable of performing. Such forecast shall be periodically revised during such year. To the extent such information is available, the agency forecasts shall specify:

"(i) The approximate number of individual contract opportunities (and the number of opportunities within a class)

"(ii) The approximate dollar value, or range of dollar values, for each contract opportunity or class of contract opportunities.

"(iii) The anticipated time (by fiscal year quarter) for the issuance of a procurement request.

"(iv) The activity responsible for the award and administration of the contract. 102 STAT. 3881

"(D) The head of each executive agency subject to the provisions of subparagraph (C) shall within 10 days of completion furnish such forecasts to—

"(i) the Director of the Office of Small and Disadvantaged Business Utilization established pursuant to section 15(k) for such agency; and

"(ii) the Administrator.

"(E) The information reported pursuant to (D) may be limited to classes of items and services for which there are substantial annual purchases.

"(F) Such forecasts shall be available to small business concerns.".

SEC. 502. ANNUAL CONTRACTING GOALS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended—

(1) by striking out "The head" and inserting in lieu thereof "(2) The head";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and

(3) by adding at the beginning the following new paragraph:

President of U.S.

"(1) The President shall annually establish Government-wide goals for procurement contracts awarded to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. The Government-wide goal for participation by small business concerns shall be established at not less than 20 percent of the total value of all prime contract awards for each fiscal year. The Government-wide goal for participation by small business concerns owned and controlled by socially and economically disadvantaged individuals shall be established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year. Notwithstanding the Government-wide goal, each agency shall have an annual goal that presents, for that agency, the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts let by such agency. The Administration and the Administrator of the Office of Federal Procurement Policy shall, when exercising their authority pursuant to paragraph (2), insure that the cumulative annual prime contract goals for all agencies meet or exceed the annual Government-wide prime contract goal established by the President pursuant to this paragraph.".

SEC. 503. PRESIDENTIAL REPORT ON CONTRACTING GOALS.

Section 15(h) of the Small Business Act (15 U.S.C. 644(h)) is amended—

(1) by striking out "(h)" and inserting in lieu thereof "(h)(1)",

(2) by striking out the last sentence of subsection (h)(1), and

(3) by adding at the end thereof the following new paragraph:

"(2) The Administration shall annually compile and analyze the reports submitted by the individual agencies pursuant to paragraph (1) and shall submit them to the President. The Administration's submission to the President shall include the following:

"(A) The Government-wide goals for participation by small business concerns and small business concerns owned and controlled by socially and economically disadvantaged and the performance in attaining such goals.

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"(B) The goals in effect for each agency and the agency's performance in attaining such goals.

"(C) An analysis of any failure to achieve the Government-wide goals or any individual agency goals and the actions planned by such agency (and approved by the Administration) to achieve the goals in the succeeding fiscal year.

"(D) The number and dollar value of contracts awarded to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals through—

"(i) noncompetitive negotiation,

"(ii) competition restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals,

"(iii) competition restricted to small business concerns, and

"(iv) unrestricted competitions,

for each agency and on a Government-wide basis.

"(E) The number and dollar value of subcontracts awarded to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

"(F) The number and dollar value of prime contracts and subcontracts awarded to women-owned small business enterprises.

"(3) The President shall include the information required by paragraph (2) in each annual report to the Congress on the state of small business prepared pursuant to section 303(a) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(a))."

SEC. 504. GENERAL ACCOUNTING OFFICE REPORT. 15 USC 636 note.

(a) IN GENERAL.—(1) The Comptroller General of the United States shall conduct a review of the operation of the Minority Small Business and Capital Ownership Development Program authorized by section 7(j)(10) (15 U.S.C. 636(j)(10)) and the contract assistance provided pursuant to section 8(a) (15 U.S.C. 637(a)) of the Small Business Act commencing within 180 days of the enactment of this Act and concluding on September 30, 1991.

(2) The review shall report on the implementation of the provisions of this Act by the Small Business Administration and the various executive departments and agencies providing contracting opportunities to the Program. In addition to such other matters as the Comptroller General may choose to include, the review shall report on the implementation of the Act's provisions relating to—

(A) the certification of Program Participants by the Administration;

(B) the development and maintenance of business development plans required by this Act;

(C) the amount and types of business management and technical assistance provided to Program Participants, including transition management assistance, and the criteria by which the effectiveness of such assistance is measured by the Administration;

(D) the type and amount of financial assistance provided through the programs authorized by the Small Business Act and the Small Business Investment Act of 1958;

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(E) Program Participants' dependence on contracts awarded noncompetitively under the authority of section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and the rate of increase in the percentage of competitively awarded contracts in the firms' business mix as Program Participants approach graduation;

(F) the competitive award of contracts within the Program, determining the number, dollar value, and source selection method used for the various contract opportunities required to be awarded competitively and those for which competition was discretionary;

(G) the noncompetitive award of contracts to Program Participants; the effect on the distribution of Program awards among individual Program Participants; and Program Participants located in each of the several States; and the Administration's use of the authority to direct contracts to Program Participants in the interest of maintaining equitable contract distributions;

(H) delay in the award of contracts flowing from protests, either of a prospective awardee's continued Program eligibility or the conduct of a competition restricted to Program Participants;

(I) limitations on the transfer of contracts to a Program Participant incident to transferring ownership and control of the business;

(J) reporting by Program Participants concerning the use of consultants and other non-employees to assist in obtaining Federal contracts; and

(K) data collection and data management by the Administration relating to the Program.

(3) The Comptroller General shall prepare a report summarizing the findings of the review described in paragraph (2), and make such recommendations for the improved implementation of this Act as

may be appropriate. The report shall be transmitted to the Committees on Small Business of the Senate and House of Representatives by February 1, 1992.

15 USC 636 note.

SEC. 505. COMMISSION ON MINORITY BUSINESS DEVELOPMENT.

(a) ESTABLISHMENT.—There is established a Commission to be known as the "Commission on Minority Business Development" (hereinafter in this title referred to as the "Commission").

(b) DUTIES.—(1) The Commission shall—

(A) review and conduct an assessment of the operations of all Federal programs intended to promote and foster the development of minority owned businesses to ascertain whether the purposes and objectives of such program are being realized. Such review and assessment shall include, among other things, an evaluation of the issues described in this subsection;

(B) review and assess the overall effectiveness of the Small Business and Capital Ownership Development Program established pursuant to 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) including—

(i) the procedure whereby the Administration certifies concerns pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)), including, the average time for the processing of applications, the criteria for program admission, and the geographic and industrial distribution of new program entrants;

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(ii) the developmental assistance provided under the Small Business Act to such concerns and whether such assistance has been of benefit to program participants and whether modifications, additions, or deletions to such assistance should be provided to further the purposes of the program; such evaluation shall also include an analysis of whether program benefits, including contract awards, have been equitably distributed among all program participants and whether all regions of the Nation have benefitted from the program in proportion to their respective numbers of minority owned businesses;

(iii) the system established by this Act for competing contracts pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and whether improved methods could be used, consistent with the purposes of the program, to better impart competitive skills, prevent program abuse, and promote the equitable distribution of awards;

(iv) the appropriate maximum term for program participation; such evaluation shall take into account relevant industry data, the developmental cycles of particular industries, and the financial, managerial and technological needs of such concerns to become competitive; a study shall be conducted relating to the fixed program term allowed under statute and the advisability of adopting alternative terms based on Standard Industrial Classification Codes or other economic indices;

(v) the data collection system maintained by the Administration to gather information relative to the program and whether such system is producing reliable data needed for effective management and control of the program;

(vi) various techniques that may be used to increase the participation rate of Federal agencies (as defined pursuant to section 224 of Public Law 95–507) in the program, to further the compliance of contractors with section 8(d) of the Small Business Act (15 U.S.C. 637(d)), and to properly coordinate the program with the operations of other Federal programs and activities designed to assist small business concerns owned and controlled by the socially and economically disadvantaged; and

(vii) the laws and regulatory procedures designed to protect against program abuse and if additional safeguards are necessary to protect the integrity of the program;

(C) review and assess the programs described in subparagraph (B) and whether the congressional purposes for such programs are being achieved in a manner that is consistent with the intent of other programs established under Federal law to promote the development of small business concerns; and

(D) review and assess—

(i) the policies and procedures of major procurement agencies with respect to setting goals by contractors (and subcontractors) under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) to encourage subcontracting opportunities for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals;

(ii) the performance of a sample of contractors (and subcontractors) in attaining the goals established in their subcontracting plans and in making greater use of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; 102 STAT. 3885

(iii) the extent to which liquidated damages have been assessed under subcontracting plans and whether the inclusion of a liquidated damage clause furthers the purposes of the subcontracting program; and

(iv) the special circumstances of contractors providing commercial products.

(2)(A) Based upon its review, the Commission shall issue an interim report and a final report to the Congress and to the President. Reports.

(B) The interim report shall be issued by December 31, 1990, and shall detail the methodology pursued to evaluate each issue described in subparagraphs (A) and (B) of paragraph (1). The Commission shall also indicate those changes in law or regulation, if any, that should be considered immediately in order to protect the integrity of the Program and further the legitimate interests of Program Participants.

(C) The final report shall be issued within 1 year after the interim report and shall contain detailed findings, conclusions, and recommendations for such changes in law or regulation as may be necessary to further the growth and development of minority businesses. Such findings, conclusions, and recommendations shall be stated for each issue described under each such subparagraph.

(c) MEMBERSHIP.—(1) The Commission shall be composed of fourteen members to be selected as follows:

(A)(i) The Administrator of the Small Business Administration, or a designee of the Administrator.

(ii) The Under Secretary of Defense for Acquisition.

(iii) The Secretary of Commerce (or such Secretary's Deputy).

(iv) The Secretary of Transportation (or such Secretary's Deputy).

(B) Two members shall be representatives of trade or business associations whose membership are primarily small business concerns owned and controlled by socially and economically disadvantaged individuals.

(C) Four members shall be chief executive officers, or individuals of similar position, from major domestic corporations two of which shall be minority businesses.

(D) Four members shall be from leading educational institutions in business administration and management, two of which shall be from historically Black colleges or universities and minority institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.).

(2) Appointments under subparagraphs (B), (C), and (D) of paragraph (1) shall be made by the President. No more than one-half of the members appointed under each such subparagraph shall be of the same political party. No appointed member shall be an officer or employee of the Federal Government nor of the Congress. President of U.S.

(3) Members appointed under such subparagraphs shall be appointed for the term of the Commission except if any such appointee

becomes an officer or employee of the Federal Government or of the Congress, such individual may continue as a member of the Commission for not longer than the thirty-day period beginning on the date such individual becomes such an officer or employee.

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(4) A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(5) Members of the Commission shall serve without pay for such membership, except members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission, in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

(6)(A) Four members of the Commission shall constitute a quorum for the receipt of testimony and other evidence.

(B) A majority of the Commission shall constitute a quorum for the approval of a report submitted pursuant to paragraph 2.

(C) The Commission shall meet not less than four times a year. Meetings shall be at the call of the Chairperson.

(7) The Chairperson and Vice Chairperson of the Commission shall be designated by the President and term of office for such Chairperson and Vice Chairperson shall be at the discretion of the President.

(d) DIRECTOR AND STAFF.—(1)(A) The Commission shall have a Director who shall be appointed by the Chairperson. Upon recommendation by the Director, the Chairperson may appoint and fix the pay of four additional personnel.

(B) The Director and staff of the Commission may be appointed without regard to section 531(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(2) The Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(3) Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title without regard to section 3341 of title 5 of the United States Code.

(e) POWERS.—(1) The Commission may, for the purpose of carrying out this title sit and act at such times and places, hold such hearings, take such testimony, receive such evidence, and consider such information, as the Commission considers appropriate. The Commission may administer oaths or affirmations for the receipt of such testimony.

(2) Any member or person within the employ of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) Except as otherwise prohibited by law, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this Act. Upon the request of the Chairperson of the Commission, the head of such department or agency shall promptly furnish such information to the Commission.

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Mail.

(4) The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(5) The Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request. In

addition, the Administrator shall, as appropriate, provide to the Commission, upon request, access to and use of such Federal facilities as may be necessary for the conduct of its business.

(f) TERMINATION.—The Commission shall cease to exist on the date that it transmits its final report to the Congress and to the President.

(g) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this title and they may remain available until the Commission is terminated. New spending authority or authority to enter contracts as authorized in the section shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

(h) REPEALER.—Subparagraph (A) of section 7(j)(3) of the Small Business Act (15 U.S.C. 636(j)(3)(A)) is repealed.

TITLE VI—ADMINISTRATIVE AND TECHNICAL AMENDMENTS

SEC. 601. RELATIONSHIP WITH OTHER PROCUREMENT PROGRAMS.

Section 15(m) of the Small Business Act (15 U.S.C. 644(m)) is amended to read as follows:

"(m)(1) Each agency subject to the requirements of section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) shall, when implementing such requirements—

"(A) establish policies and procedure that insure that there will be no reduction in the number of dollar value of contracts awarded pursuant to this section and section 8(a) in order to achieve any goal or other program objective; and

"(B) assure that such requirements will not alter or change the procurement process used to implement this section or section 8(a).

"(2) All procurement center representatives (including those referred to in subsection (k)(6)), in addition to such other duties as may be assigned by the Administrator, shall—

"(A) monitor the performance of the procurement activities to which they are assigned to ascertain the degree of compliance with the requirements of paragraph (1);

"(B) report to their immediate supervisors all instances of noncompliance with such requirement; and

"(C) increase, insofar as possible, the number and dollar value of procurements that may be used for the programs established under this section, section 8(a), and section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note).".

SEC. 602. INDIAN TRIBE EXEMPTIONS.

15 USC 637 note.

(a) COMPETITIVE THRESHOLDS.—Section 8(a)(16) of the Small Business Act as added by section 303 of this Act, shall not apply to Program Participants that are owned and controlled by economically disadvantaged Indian tribes, as defined pursuant to paragraphs (4) and (13) of section 8(a) of the Small Business Act (15 U.S.C. 637(a)(4) and (13)). 102 STAT. 3888

(b) JOINT VENTURES.—The Administration is authorized to award a contract pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) to a joint venture notwithstanding the size status of such joint venture if—

(1) a party to the joint venture is a Program Participant that is owned and controlled by an economically disadvantaged Indian tribe (as defined pursuant to paragraphs (4) and (13) of section 8(a) of the Small Business Act (15 U.S.C. 637(a)(4) and (13)); and

(2) such Program Participant:

(A) owns 51 per centum or more of such joint venture;

(B) is located on the reservation of such tribe;

(C) performs most of its activities on such reservation; and

(D) employs members of such tribe for at least 50 per centum of its total workforce.

(c) LIMITATIONS.—A Program Participant, as a party to a joint venture shall receive no more than two contracts due solely to the provisions of subsection (b).

(d) ELIGIBILITY OF MORE THAN ONE CONCERN.—The Administration may permit more than one small business concern owned by a socially and economically disadvantaged Indian tribe to be eligible for assistance pursuant to this section 7(j)(10) and section 8(a) of the Small Business Act (15 U.S.C. 636(j)(10) and 637(a)) if—

(1) the Indian tribe does not own another firm in the same industry which has been determined to be eligible to receive contracts under this program, and

(2) the individuals responsible for the management and daily operations of the concern do not manage more than two Program Participants.

(e) SUNSET.—Subsection (b) shall cease to be effective after September 30, 1991.

SEC. 603. DIRECTORS OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.

15 USC 644.

Section 15(k) of the Small Business Act is amended by—

(1) amending paragraph (3) to read as follows:

"(3) be responsible only to, and report directly to, the head of such agency or to the deputy of such head, except that the director for the Office of the Secretary of Defense shall be responsible only to, and report directly to, such Secretary or the Secretary's designee;";

(2) striking "and" at the end of paragraph (7);

(3) striking the period at the end of paragraph (8) and inserting in lieu thereof ", and"; and

(4) adding at the end thereof the following new paragraph:

"(9) make recommendations to contracting officers as to whether a particular contract requirement should be awarded pursuant to subsection (a), or section 8(a) of this Act or section 1207 of Public Law 99-661. Such recommendations shall be made with due regard to the requirements of subsection (m), and the failure of the contracting officer to accept any such recommendations shall be documented and included within the appropriate contract file.".

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TITLE VII—SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM

Small Business Competitiveness Demonstration Program Act of 1988.
15 USC 644 note.

PART A—SHORT TITLE AND FINDINGS

SEC. 701. SHORT TITLE.

This title may be cited as the "Small Business Competitiveness Demonstration Program Act of 1988".

SEC. 702. FINDINGS.

The Congress finds that—

(1) many small business concerns have repeatedly demonstrated their ability to fulfill a broad range of Government requirements for products, services (including research, development, technical, and professional services), and construction, through the Federal procurement process;

(2) various Congressional mandated reforms to the Federal procurement process, including the Competition in Contracting Act of 1984, the Defense Procurement Reform Act of 1984, and the Small Business and Federal Procurement Competition Enhancement Act of 1984, were designed to eliminate obstacles to competition and thereby to broaden small business participation; and

(3) traditional agency efforts to implement the mandate for small business participation in a fair proportion of Federal procurements as required by section 15(a) of the Small Business Act have resulted in—

(A) a concentration of procurement contract awards in a limited number of industry categories, often dominated by small business concerns, through the use of set-asides, for the purpose of assuring the attainment of the agency's overall small business contracting goals; and

(B) inadequate efforts to expand small business participation in agency procurements of products or services which have historically demonstrated low rates of small business participation despite substantial potential for expanded small business participation.

PART B—DEMONSTRATION PROGRAM

15 USC 644 note.

SEC. 711. SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—There is established a Small Business Competitiveness Demonstration Program (hereafter referred to as "the Program") pursuant to section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413) to provide for the testing of innovative procurement methods and procedures. The Administrator of Federal Procurement Policy shall designate the Administrator of the Small Business Administration as the executive agent responsible for conducting the test.

(b) PURPOSES.—The purposes of the Program are to demonstrate whether—

(1) the competitive capabilities of small business firms in certain industry categories will enable them to successfully compete on an unrestricted basis for Federal contracting opportunities,

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(2) the use of targeted goaling and management techniques by procuring agencies, in conjunction with the Small Business Administration, can expand small business participation in Federal contracting opportunities which have been historically low, despite adequate numbers of qualified small business contractors in the economy, and

(3) expanded use of full and open competition, as specified by the Competition in Contracting Act of 1984 (10 U.S.C. 2302(3) and 41 U.S.C. 403(7)), adversely affects small business participation in certain industry categories, taking into consideration the numerical dominance of small firms, the size and scope of most contracting opportunities, and the competitive capabilities of small firms.

(c) PROGRAM TERM.—The Program shall be conducted over a period of 4 years, beginning on January 1, 1989, and ending on December 31, 1992.

(d) APPLICATION.—The Program shall apply to contract solicitations for the procurement of services in industry groups designated in section 717.

SEC. 712. ENHANCED SMALL BUSINESS PARTICIPATION GOALS.

(a) ENHANCED GOALS FOR DESIGNATED INDUSTRY GROUPS.—Each participating agency shall establish an annual small business participation goal that is 40 percent of the dollar value of the contract awards for each of the designated industry groups. In attaining its small business participation goal for contract awards for each of the designated industry groups, each participating agency shall make a good faith effort to assure that emerging small business concerns are awarded not less than 15 percent of the dollar value of the contract awards for each of the designated industry groups.

(b) SPECIAL ASSISTANCE FOR EMERGING SMALL BUSINESS CONCERNS.—

(1) SMALL BUSINESS RESERVE.—During the term of the Program, all contract opportunities in the industry groups designated in section 718 shall be reserved for exclusive competition among emerging small business concerns in accordance with the competition standard specified in section 15(j) of the Small Business Act (15 U.S.C. 644(j)), if the estimated award value of the contract is equal to or less than the greater of:

(A) $25,000, or

(B) such larger dollar amount established pursuant to paragraph (2).

(2) ADJUSTMENTS TO THE SMALL BUSINESS RESERVE.—If the goal of awarding emerging small business concerns 15 percent of the total dollar value of contracts in a designated industry category is determined not to have been attained, upon the review of award data conducted in accordance with subsection (d)(1) of this section, the Administrator for Federal Procurement Policy, to ensure attainment of such goal, shall prescribe, on a semi-annual basis, appropriate adjustments to the dollar threshold for contract opportunities in such designated industry category below which competition shall be conducted exclusively among emerging small business concerns.

(3) SMALL BUSINESS SMALL PURCHASE RESERVE.—The requirements of this subsection dealing with the reserve amount shall apply notwithstanding the amount specified in section 15(j) of the Small Business Act (15 U.S.C. 644(j)).

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(4) EXCLUSION OF MODIFICATIONS TO EXISTING CONTRACTS ABOVE THE SMALL PURCHASE THRESHOLD.—Any modification or follow-on award to a contract having an initial award value in excess of $25,000 shall not be subject to the limitations on competition required by this subsection.

(c) TARGETING INDUSTRY CATEGORIES WITH LIMITED SMALL BUSINESS PARTICIPATION.—(1) Concurrent with the term of the Small Business Competitiveness Demonstration Program, the head of each participating agency shall implement a program to expand small business participation in the agency's acquisition of selected products and services in 10 industry categories which have historically demonstrated low rates of small business participation. The products and services to be targeted for the small business participation expansion program and the special goals for such program, shall be developed in conjunction with the Administrator of the Small Business Administration, and shall be subject to the requirements of section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

(2) The products or services selected for the small business participation expansion program shall be drawn from industry categories that:

(A) are the recipients of substantial purchases by the Federal Government;

(B) have less than 10 percent of such annual purchases made from small business concerns; and

(C) have significant amounts of small business productive capacity that have not been utilized by the Government.

(3) In developing its small business participation expansion program, each participating agency shall:

(A) prepare, and furnish to the Administration, a detailed, time-phased strategy (with incremental numerical goals); and

(B) encourage and promote joint ventures, teaming agreements and other similar arrangements, which permit small business concerns to effectively compete for contract solicitations for which an individual small business concern would lack the requisite capacity or capability needed to establish responsibility for the award of a contract.

(d) MONITORING AGENCY PERFORMANCE.—

(1) Participating agencies shall monitor the attainment of their small business participation goals on a quarterly basis. The initial review by each participating agency shall be com-

pleted not later than June 30, 1989, based on the data for the period January 1 through March 31, 1989. Thereafter, each review shall be based on the aggregate of contract award data from the 4 quarters preceding the date of the review for which data is available.

(2) All awards to small business concerns (including small business concerns owned and controlled by socially and economically disadvantaged individuals) shall be counted toward attainment of the goals specified in subsection (a) of this section.

(3) Modifications to a participating agency's solicitation practices, pursuant to section 713(b), shall be made at the beginning of the quarter following each review, if the rate of small business participation is less than 40 percent of the contract awards. 102 STAT. 3892

SEC. 713. PROCUREMENT PROCEDURES.

(a) FULL AND OPEN COMPETITION.—Except as provided in subsections (b) and (c), each contract opportunity with an anticipated value of $25,000 or more for the procurement of services from firms in the designated industry groups (unless set aside pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) or section 1207 of the National Defense Authorization Act for Fiscal Year 1987) shall be solicited on an unrestricted basis during the term of the Program, if the participating agency has attained its small business participation goal pursuant to section 712(a). Any regulatory requirements which are inconsistent with this provision shall be waived.

(b) RESTRICTED COMPETITION.—If a participating agency has failed to attain its small business participation goal under section 712(a), subsequent contracting opportunities, which are in excess of the reserve thresholds specified pursuant to section 712(b) shall be solicited through a competition restricted to eligible small business concerns pursuant to section 15(a) of the Small Business Act (15 U.S.C. 644(a)) to the extent necessary for such agency to attain its goal. Such modifications in the participating agency's solicitation practices shall be made as soon as practicable, but not later than the beginning of the quarter following completion of the review made pursuant to section 712(d) indicating that changes to solicitation practices are required. Such participating agency shall comply with the requirements of subsection (a) upon determining that its contract awards to small business concerns meet the required goals.

(c) RELATIONSHIP WITH THE COMPETITION IN CONTRACTING ACT OF 1984.—Subsections (a) and (b) shall not be construed to supersede the application of the Competition in Contracting Act of 1984 (98 Stat. 1175).

SEC. 714. REPORTING.

(a) AWARDS OF $25,000 OR LESS.—During the term of the Small Business Competitiveness Demonstration Program, each award of $25,000 or less made by a participating agency for the procurement of a service in any of the designated industry categories shall be reported to the Federal Procurement Data Center in the same manner as if the purchase were in excess of $25,000.

(b) SUBCONTRACTING ACTIVITY.—The Administrator for Federal Procurement Policy shall devise and implement, during the term of the Program, a simplified system to test the collection, reporting, and monitoring of data on subcontract awards to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals for—

(1) services in each of the designated industry groups; and

(2) products or services from industry categories selected for participation in the small business participation expansion program, pursuant to section 712(c).

(c) SIZE OF SMALL BUSINESS CONCERNS.—During the term of the Program, each participating agency shall collect data pertaining to

the size of the small business concern receiving any award for the procurement of—

(1) services in each of the designated industry groups; and

(2) products or services from industry categories selected for participation in the small business participation expansion program, pursuant to section 712(d).

102 STAT. 3893

SEC. 715. TEST PLAN AND POLICY DIRECTION.

(a) TEST PLAN.—The Administrator for Federal Procurement Policy may further specify the manner and conduct of the test activities required by this title through a test plan issued pursuant to section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413).

(b) POLICY DIRECTION.—The Administrator for Federal Procurement Policy, in cooperation with the Administrator of the Small Business Administration, shall issue a policy directive (which shall be binding on all participating agencies) to ensure consistent Government-wide implementation of this title in the Federal Acquisition Regulation, title 48 of the Code of Federal Regulations, issued pursuant to the Office of Federal Procurement Policy Act.

SEC. 716. REPORT TO CONGRESS.

(a) IN GENERAL.—Within 180 days after fiscal year 1991 data is available from the Federal Procurement Data Center, the Administrator for Federal Procurement Policy shall report the results of the Small Business Competitiveness Demonstration Program to the Committees on Small Business of the Senate and House of Representatives, to the Committee on Governmental Affairs of the Senate, and to the Committee on Government Operations of the House of Representatives. The views of the Administrator of the Small Business Administration shall be included in the report.

(b) ANALYSIS OF PROGRAM.—The report shall include a section prepared by the Administrator of the Small Business Administration specifying the results of the intensive goaling and management program conducted to expand small business participation in agency acquisitions of selected products and services.

(c) RECOMMENDATIONS.—To the extent the results of the Program demonstrate sufficiently high small business participation based on unrestricted contract competition in the designated industry groups, the report shall include recommendations (if appropriate) for changes in legislation or modifications of procurement regulations aimed at increasing reliance on unrestricted competition if high rates of small business participation in the Federal procurement market can be maintained.

SEC. 717. DESIGNATED INDUSTRY GROUPS.

(a) IN GENERAL.—For the purposes of participation in this Program, the designated industry groups are—

(1) construction (excluding dredging);

(2) refuse systems and related services;

(3) architectural and engineering services (including surveying and mapping); and

(4) non-nuclear ship repair.

(b) CONSTRUCTION.—Construction shall include contract awards assigned one of the standard industrial classification codes that comprise—

(1) Major Group 15 (Building Construction—General Contractors and Operative Builders),

(2) Major Group 16 (Construction Other Than Building Construction—General Contractors and Dredging), and

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(3) Major Group 17 (Construction—Special Trade Contractors).

(c) REFUSE.—Refuse systems and related services shall include contract awards assigned to standard industrial classification code 4212 or 4953.

(d) ARCHITECTURAL AND ENGINEERING.—Architectural and engineering services (including surveying and mapping) shall include contract awards assigned to standard industrial classification code 7389 (if identified as pertaining to mapping services), 8711, 8712, or 8713.

(e) ALTERNATIVE DATA.—In the event that standard industrial classification codes are not assigned to individual contract awards reported to the Federal Procurement Data Center by January 1, 1989, the Program may be conducted on the basis of the product and service codes used to report data pertaining to such contract awards, related to the maximum practicable extent to the standard industrial classification code for the service being provided by the contractor.

SEC. 718. DEFINITIONS.

(a) DESIGNATED INDUSTRY GROUPS.—"Designated industry groups" means the groups specified in section 717 for participation in the Small Business Competitiveness Demonstration Program.

(b) EMERGING SMALL BUSINESS CONCERN.—"Emerging small business concern" means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the standard industrial classification code assigned to a contracting opportunity.

(c) PARTICIPATING AGENCY.—"Participating agency" shall have the same meaning as the term "executive agency" in section (4)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)). The Administrator for Federal Procurement Policy is authorized to specify as part of the Program test plan the list of executive agencies designated to participate in the Program, which shall include:

(1) the Department of Agriculture,

(2) the Department of Defense (with the Department of the Army, the Department of the Navy, the Department of the Air Force, and the defense agencies reporting separately),

(3) the Department of Energy,

(4) the Department of Health and Human Services,

(5) the Department of Transportation,

(6) the Environmental Protection Agency,

(7) the General Services Administration (the Public Building Service reporting separately),

(8) the National Aeronautics and Space Administration, and

(9) the Veterans Administration.

The Administrator for Federal Procurement Policy is authorized to require any participating agencies to report separately in any manner deemed appropriate to enhance the attainment of the test activities authorized by this title.

(d) SMALL BUSINESS PARTICIPATION.—"Small business participation" shall include the aggregate dollar value of every procurement contract award made to a small business concern, without regard to whether such award was based on restricted or unrestricted competition, or was made on a sole source basis.

(e) STANDARD INDUSTRIAL CLASSIFICATION CODE.—"Standard industrial classification code" means a four digit code assigned to an industry category in the Standard Industrial Classification Manual published by the Office of Management and Budget in effect on the date of enactment of this Act. 102 STAT. 3895

PART C—ALTERNATIVE PROGRAM FOR CLOTHING AND TEXTILES 15 USC 644 note.

SEC. 721. ALTERNATIVE PROGRAM FOR CLOTHING AND TEXTILES.

(a) ESTABLISHMENT.—Subject to the requirements of subsection (b), of the total dollar amount of contracts for each standard industrial classification code for clothing and textiles awarded by the Defense Logistics Agency for each of the fiscal years 1989, 1990, and 1991:

(1) To the maximum extent practicable, 50 percent shall not be restricted by the size status of the competing business concerns.

(2) To the maximum extent practicable, 50 percent shall be made available for award pursuant to—

(A) section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(B) section 1207 of the National Defense Authorization Act for Fiscal Year 1987; and

(C) section 15(a) of the Small Business Act (15 U.S.C. 644(a)), if the criteria for such awards are met pursuant to part 19.5 (Set-Asides for Small Business) of title 48, Code of Federal Regulations, as in effect on September 1, 1988.

(b) COMPUTATION.—In order to calculate the percent limitation established pursuant to subsection (a), the Department may establish, after consultation with the Small Business Administration, major groupings of standard industrial classification codes that are closely related and apply such limitations to such groupings.

SEC. 722. EXPANDING SMALL BUSINESS PARTICIPATION IN DREDGING.

(a) ESTABLISHMENT.—During fiscal years 1989, 1990, 1991, and 1992, the Secretary of the Army (hereafter in this section referred to as the "Secretary") shall conduct a program to expand the participation of small business concerns and emerging small business concerns in contracting opportunities for dredging.

(b) ENHANCED GOALS.—Of the total dollar value of contracts for dredging, the Department of the Army (hereafter in this section referred to as the "Department") shall make every reasonable effort to award to small business concerns:

(1) 20 percent during fiscal year 1989, including 5 percent of the total dollar value of contracts which is reserved for emerging small business concerns;

(2) 25 percent during fiscal year 1990, including 7.5 percent of the total dollar value of contracts which is reserved for emerging small business concerns;

(3) 30 percent during fiscal year 1991, including 10 percent of the total dollar value of contracts which is reserved for emerging small business concerns; and

(4) 30 percent during fiscal year 1992, including 10 percent of the total dollar value of contracts which is reserved for emerging small business concerns.

Subcontract awards may be counted towards the attainment of such goals, provided that there is available a system for the collection of data relating to the award of subcontracts under dredging contracts awarded by the Department.

102 STAT. 3896

(c) CONTRACT AWARD PROCEDURES.—(1) Except as provided in paragraphs (2) and (3), the Department shall solicit and award contracts for dredging through full and open competition in conformity with section 2304 of title 10, United States Code, section 15 of the Small Business Act (15 U.S.C. 644), and the implementing procurement regulations promulgated in conformity with section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405). Nothing herein shall impair the award of contracts pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) or section 1207 of the National Defense Authorization Act for Fiscal Year 1987.

(2) Contracting opportunities for dredging shall be reserved for competition among emerging small business concerns if their estimated award value is below an amount to be specified by the Administrator for Federal Procurement Policy (hereafter in this section referred to as the "Administrator"), upon the recommendation of the Secretary. Such reserve amount shall be established by the Administrator at the start of the program at a level which can reasonably be expected to result in the Department attaining the applicable participation goal for emerging small business concerns. Such reserve threshold shall be reviewed by the Secretary and adjusted by the Administrator to the extent necessary on a semiannual basis beginning after the end of the second quarter of fiscal year 1989 on the basis of the aggregate of contract awards for the four fiscal year quarters preceding the date of the review.

(3) The Secretary shall restrict for competition among all eligible small business concerns such additional contracting opportunities

for dredging in such numbers and at such estimated award values as can reasonably be expected to result in the Department attaining the applicable participation goal for small business concerns generally.

(d) ACQUISITION STRATEGIES TO FOSTER SMALL BUSINESS PARTICIPATION.—(1) In attaining the goals for participation by small business concerns and emerging small business concerns, the Secretary is encouraged to:

(A) specify contract requirements and contractual terms and conditions that are conducive to competition by small business concerns and emerging small business concerns, consistent with the mission or program requirements of the Department;

(B) joint ventures, teaming agreements, and other similar arrangements, which permit small business concerns to effectively compete for contract opportunities for which an individual firm would lack the requisite capacity or capability needed to establish responsibility for the award of a contract; and

(C) subcontracting through plans negotiated and enforced pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) or solicitation requirements specifying minimum percentages of subcontracting for the purpose of determining the responsiveness of an offer.

(2) During the term of the program, data shall be collected pertaining to the actual size of the firm receiving an award as a small business concern or an emerging small business concern.

(e) SIZE STANDARD.—For the purposes of the program established by subsection (a), the size standard pertaining to standard industrial classification code 1629 (Dredging and Surface Cleanup Activities) in effect on October 1, 1988 shall remain in effect until September 30, 1990.

(f) REPORTS.— 102 STAT. 3897

(1) The Secretary shall furnish a report to the Committees on Small Business of the Senate and House of Representatives, the Administrator of the Small Business Administration, and the Administrator for Federal Procurement Policy within 120 days after September 30, 1992.

(2) Interim reports shall be submitted annually within 90 days after the close of each of the fiscal years 1989, 1990, and 1991. The Secretary may include recommendations regarding adjustments to the Department's participation goals for small business concerns and emerging small business concerns and to the applicable size standard, if the Secretary determines that such goals cannot reasonably be attained from the pool of firms meeting the current size standard.

(3) The Secretary of Defense shall issue reports to the Congress on the operations of the program established pursuant to this section. Such reports shall detail the effects of the program on the mobilization base and on small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. Interim reports shall be submitted every six months during the term of the program to the Committees on Armed Services and Small Business of the House of Representatives and the Senate.

PART D—AMENDMENTS TO THE SMALL BUSINESS ACT

SEC. 731. TECHNICAL AMENDMENT.

15 USC 644 note.

Section 809(a)(2) of title VIII, division A of Public Law 100-180 (101 Stat. 1130, December 4, 1987) is amended by striking out "October 1, 1988" and inserting in lieu thereof "October 1, 1989".

SEC. 732. REPEALER.

Paragraphs (2) through (5) of subsection 3(a) of the Small Business Act (15 U.S.C. 632(a) (2)–(5)) are repealed. Any numerical size standard that pertains to any of the designated industry groups, and that is in effect on September 30, 1988, shall remain in effect for the duration of the Program.

15 USC 632 note.

PART E—OTHER AMENDMENTS

15 USC 644 note.

SEC. 741. SEGMENTATION OF INDUSTRY CATEGORY.

Maritime affairs.

The Small Business Administration, pursuant to the authority of section 15(a) of the Small Business Act (15 U.S.C. 644(a)), shall segment the industry category of shipbuilding and ship repair, as follows:

(1) nuclear shipbuilding and repair;

(2) non-nuclear shipbuilding; and

(3) non-nuclear ship repair, which shall be further segmented by, at least, East Coast and West Coast facilities.

SEC. 742. DEFINITION OF ARCHITECTURAL AND ENGINEERING SERVICES.

Section 901 of the Federal Property and Administrative Services Act (40 U.S.C. 541) is amended by striking out paragraph (3) and inserting the following:

"(3) The term 'architectural and engineering services' means—

102 STAT. 3898

"(A) professional services of an architectural or engineering nature, as defined by State law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services as described in this paragraph;

"(B) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

"(C) such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual design, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.".

TITLE VIII—AUTHORIZATIONS, EFFECTIVE DATES, AND MISCELLANEOUS MATTERS

15 USC 636 note.

SEC. 801. REGULATIONS.

The Small Business Administration shall—

(1) within 60 days after the date of enactment of this Act conduct meetings of present and potential participants in the program established by section 7(j)(10) of the Small Business Act, as amended by this Act, to ascertain and consider public comment on the nature and extent of regulations needed to implement this Act;

Federal Register, publication.

(2) within one hundred and twenty days after the date of enactment of this Act, publish in the Federal Register proposed rules and regulations implementing this Act; and

(3) within two hundred and ten days after the date of enactment of this Act, publish in the Federal Register final rules and regulations implementing this Act.

SEC. 802. AUTHORIZATIONS.

(a) BUSINESS OPPORTUNITY SPECIALISTS.—There is hereby authorized to be appropriated for each of fiscal years 1989 and 1990 the sum of $3,500,000 to provide for the employment, salaries and expenses of 70 additional Business Opportunity Specialists to carry out the duties described in sections 201 and 410 of this Act.

(b) TRAINING OF BUSINESS OPPORTUNITY SPECIALISTS.—There is hereby authorized to be appropriated for each of fiscal years 1989

and 1990 the sum of $500,000 to conduct the training and obtain the qualifications for Business Opportunity Specialists described in section 410.

(c) TRADITIONAL PROCUREMENT CENTER REPRESENTATIVES.—There is hereby authorized to be appropriated for each of fiscal years 1989 and 1990 the sum of $735,000 to employ 15 additional Procurement Center Representatives.

(d) BUSINESS LOANS.—There is hereby authorized to be appropriated to the Business Loan and Investment Fund, established under section 4(c)(1) of the Small Business Act (15 U.S.C. 633(a)(1)), 102 STAT. 3899
the sum of $10,000,000 each year for fiscal years 1989 and 1990 for both direct and guaranteed loans made pursuant to section 7(a)(20) of the Small Business Act, as added by section 302 of this Act.

(e) JOB TRAINING.—There is hereby authorized to be appropriated the sum of $2,000,000 for fiscal year 1990 for the job training program established by section 7(j)(13)(E) of the Small Business Act (15 U.S.C. 636(j)(13)(E)), as added by section 301(b) of this Act.

(f) LIMITATION.—(1) Any new credit authority or authority to enter into contracts provided for in this Act is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. 15 USC 636 note.

(2) No funds are authorized to be appropriated in subsequent appropriation Acts to the Administration for the purpose of making grants of financial assistance under the so called "Business Development Expense" program to any firm participating in the programs authorized by section 7(j)(10) or section 8(a) of the Small Business Act (15 U.S.C. 636(j)(10) and 637(a)).

SEC. 803 EFFECTIVE DATES. 15 USC 631 note.

(a) IN GENERAL.—Except as otherwise provided, the following provisions (and the amendments made by such provisions) shall take effect on the date of the enactment of this Act:

(1) Sections 1 and 2.
(2) Section 101.
(3) Sections 202, 203, 204, 206, and 207.
(4) Sections 301(a) and 303 (d), (e), and (f).
(5) Sections 405, 406, 408, and 410.
(6) Sections 504 and 505.
(7) Sections 601 and 603.
(8) Titles VII and VIII.
(9) Sections 7(j)(13)(G) and 7(j)(13)(I) of the Small Business Act (as added by section 301(b)).

(b) SPECIAL RULES.—(1) Except as otherwise provided, the following sections (and the amendments made by such sections) shall take effect on June 1, 1989:

(A) Sections 201, 205, and 208.
(B) Sections 301(b), 301(c), 303(a), 303(c), 303(g), 303(h), and 304.
(C) Sections 401, 402, 403, 404, and 409.
(D) Section 602.

(2) Section 407 shall take effect with respect to contracts entered into on or after June 1, 1989.

(3) The following sections (and the amendments made by such sections) shall take effect on October 1, 1989:

(A) Section 209.
(B) Sections 302 and 303(b).
(C) Sections 501, 502, and 503.

(D) Section 7(j)(13)(E) of the Small Business Act (as added by section 301(b) of this Act).

Approved November 15, 1988.

LEGISLATIVE HISTORY—H.R. 1807 (S. 1993):

HOUSE REPORTS: No. 100-460 (Comm. on Small Business) and No. 100-1070 (Comm. of Conference).
SENATE REPORTS: No. 100-394 accompanying S. 1993 (Comm. on Small Business).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 1, considered and passed House.
Vol. 134 (1988): July 7, H.R. 1807 considered and passed Senate, amended, in lieu of S. 1993.
Oct. 12, House agreed to conference report.
Oct. 18, Senate agreed to conference report.

102 STAT. 4755

Public Law 100-711
100th Congress

An Act

Nov. 23, 1988
[H.R. 4189]

To authorize appropriations to carry out the Marine Mammal Protection Act of 1972 for fiscal years 1989 through 1993.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Marine Mammal Protection Act Amendments of 1988.
16 USC 1361 note.

SECTION 1. That this Act may be cited as the "Marine Mammal Protection Act Amendments of 1988".

INTERIM COMMERCIAL FISHERY EXEMPTION

SEC. 2. (a) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended—

16 USC 1384 note.

(1) by redesignating section 114 as section 116; and

(2) by inserting immediately after section 113 the following new section:

Business and industry.
16 USC 1383a.

"INTERIM EXEMPTION FOR COMMERCIAL FISHERIES

"SEC. 114. (a)(1) During the period beginning on the date of enactment of this section and ending October 1, 1993, except as provided in paragraph (2), the provisions of this section, rather than sections 101, 103, and 104, shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States and vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). In any event it shall be the immediate goal that the incidental kill or serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

"(2) The provisions of this section other than subsection (e)(6)(A) shall not govern the incidental taking of marine mammals in the course of commercial yellowfin tuna fishing subject to section 104(h)(2) of this title.

"(b)(1) The Secretary shall, after consultation with the Marine Mammal Commission—

Federal Register, publication.

"(A) publish in the Federal Register, for public comment, not later than sixty days after the date of enactment of this section a proposed list of those fisheries, along with a statement of the marine mammals and the approximate number of vessels or persons involved in each such fishery, that have—

"(i) frequent incidental taking of marine mammals;

"(ii) occasional incidental taking of marine mammals; or

"(iii) a remote likelihood of or no known incidental taking of marine mammals;

"(B) publish in the Federal Register not later than one hundred and twenty days after the date of enactment of this section a final list of the fisheries and other information required by paragraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an exemption and otherwise comply with the requirements of this section; and

Federal Register, publication.

102 STAT. 4756

"(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered from the program established under subsections (c), (d), (e), and (f), and other relevant sources and after notice and opportunity for public comment, the classification of fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

Federal Register, publication.

"(2)(A) An exemption shall be granted by the Secretary in accordance with this section for a vessel engaged in a fishery identified under paragraph (1)(A) (i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner, the name and description of the vessel, the fisheries in which it will be engaged, and such other information as the Secretary considers necessary. A decal or other physical evidence that the exemption is current and valid shall be issued by the Secretary at the time an exemption is granted, and so long as the exemption remains current and valid, shall be reissued annually thereafter.

"(B) No exemption may be granted under this section to the owner of a vessel unless such vessel—

"(i) is a vessel of the United States; or

"(ii) has a valid fishing permit issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)).

"(C) Notwithstanding any other provision of this title, exemptions granted under this section shall authorize the incidental taking of marine mammals, other than California sea otters, from any species or stock, including a population stock designated as depleted, but shall not authorize the intentional lethal taking of any Steller sea lion, any cetacean, or any marine mammals from a population stock designated as depleted.

"(3)(A) Beginning two hundred and forty days after the date of enactment of this section, each owner of a vessel engaged in any fishery identified under paragraph (1)(A) (i) or (ii) shall, in order to engage lawfully in that fishery—

"(i) have registered with the Secretary in order to obtain for each such vessel owned an exemption for the purpose of incidentally taking marine mammals in accordance with this section;

"(ii) ensure that a decal or such other physical evidence of a current and valid exemption as the Secretary may require is displayed on or is in the possession of the master of each such vessel; and

"(iii) report as required by subsection (c).

"(B) Any owner of a vessel receiving an exemption under this section for any fishery identified under paragraph (1)(A)(i) shall, as a condition of that exemption, take on board a natural resource observer if requested to do so by the Secretary.

"(C) An owner of a vessel engaged in a fishery identified under paragraph (1)(A) (i) or (ii) who—

"(i) fails to obtain from the Secretary an exemption under this section;

"(ii) fails to maintain a current and valid exemption; or

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"(iii) fails to ensure that a decal or other physical evidence of such exemption issued by the Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this title, and shall be subject to the penalties of this title except in the case of unknowing violations before January 1, 1990.

"(D) If the owner of a vessel has obtained and maintains a current and valid exemption from the Secretary under this section and meets the requirements set forth in this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals while such vessel is engaged in a fishery to which the exemption applies.

"(E) Each owner of a vessel engaged in any fishery not identified in paragraph (1)(A) (i) or (ii), and the master and crew members of such a vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals if such owner reports to the Secretary, in such form and manner as the Secretary may require, instances of lethal incidental taking in the course of that fishery.

"(4) The Secretary shall suspend or revoke an exemption granted under this section and shall not issue a decal or other physical evidence of the exemption for any vessel until the owner of such vessel complies with the reporting requirements under subsection (c) and such requirements to take on board a natural resource observer under paragraph (3)(B) as are applicable to such vessel.

"(5)(A) The Secretary shall develop, in consultation with the appropriate States, Regional Fishery Management Councils, and other interested parties, the means by which the granting and administration of exemptions under this section shall be integrated and coordinated, to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

Communications and telecommunications.

"(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the provisions of this section and the means by which they can comply with its requirements.

"(C) The Secretary is authorized to charge a fee for the granting of an exemption under this subsection. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an exemption. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the granting and administration of exemptions under this section.

Reports.

"(c) The owner of each vessel holding an exemption granted under subsection (b) of this section shall regularly compile information which shall be used in a report to be submitted to the Secretary at the close of the fishing season or annually, as the Secretary may prescribe. Such report shall be submitted in such form as the Secretary may require and shall include the following:

"(1) the type of fishery engaged in by the owner's vessel;

"(2) the date and approximate time of any incidental taking of a marine mammal, together with the area in which the incidental taking occurred, the fishing gear used at the time of the incidental taking, and the species of fish involved; and

"(3) for each incidental taking, the number and species of marine mammals involved, whether the marine mammals were

102 STAT. 4758

deterred from gear or catch, incidentally injured, incidentally killed, or lethally removed to protect gear, catch, or human life. If there was no incidental taking of marine mammals during the reporting period, a report stating that fact shall be filed with the Secretary.

"(d)(1) The Secretary shall establish a program to enhance the quality of and verify information received from reports submitted by owners of vessels who have been granted an exemption under subsection (b) of this section. The program shall include, but not be limited to—

"(A) education efforts regarding the information that must be submitted;

"(B) interviews with fishermen; and

"(C) other such information gathering and verification activities that will enable the Secretary to determine reliably the nature, type, and extent of the incidental taking of marine mammals that occurs in a fishery.

Except to the extent authorized by the provisions of subsection (e), the program shall not include placement of observers aboard exempted vessels.

"(2) Information obtained under this subsection shall be subject to the confidentiality provisions of subsection (j). Classified information.

"(e)(1) For each fishery identified under subsection (b)(1)(A)(i) of this section, the Secretary shall, after consultation with the appropriate Regional Fishery Management Councils, other Federal and State agencies, and other interested parties, and subject to paragraph (6), place observers on board exempted vessels so as to monitor not less than 20 percent nor more than 35 percent of the fishing operations by vessels in the fishery to obtain statistically reliable information on the species and number of marine mammals incidentally taken in the fishery. If the Secretary determines that fewer than 20 percent of the fishing operations by vessels in the fishery will be monitored during the course of the fishing season, the Secretary shall implement the alternative observation program described in subsection (f) to the extent necessary to supplement the observer program described in this subsection.

"(2) When determining the distribution of observers among fisheries and between vessels in a particular fishery, the Secretary shall be guided by the following standards:

"(A) the requirement to obtain the best scientific information available;

"(B) the requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery;

"(C) consistent with paragraph (1), the requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage; and

"(D) where practicable, the need to minimize costs and avoid duplication.

"(3) If the Secretary finds that, for reasons beyond his or her control, the Secretary cannot assign observers to all the fisheries identified under subsection (b)(1)(A)(i) of this section at the level of observer coverage set forth in paragraph (1), the Secretary shall allocate available observers among such fisheries, consistent with paragraph (2), according to the following priority:

"(A) those fisheries that incidentally take marine mammals from any population stock designated as depleted; 102 STAT. 4759

"(B) those fisheries that incidentally take marine mammals from population stocks that the Secretary believes are declining;

"(C) those fisheries other than those described in subparagraphs (A) and (B) in which the greatest incidental take of marine mammals occur; and

"(D) any other fishery identified under subsection (b)(1)(A)(i).

The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a fishery not identified under subsection (b)(1)(A)(i).

"(4) Information gathered by observers shall be subject to the provisions of subsection (j). Consistent with the requirements of paragraph (1), the Secretary shall, if requested by the Appropriate Regional Fishery Management Council, or in the case of a State fishery, the State, require observers to collect additional information, including but not limited to the quantities, species, and physical condition of target and non-target fishery resources and, if requested by the Secretary of the Interior, seabirds. Birds.

"(5) Notwithstanding the provisions of paragraph (4), the Secretary may decline to require observers to collect information described in such paragraph, if the Secretary finds in writing, following public notice and opportunity for comment, that such information will not contribute to the protection of marine mammals or the understanding of the marine ecosystem, including fishery resources and seabirds.

"(6) The Secretary shall not be required to place an observer on a vessel in a fishery if the Secretary finds that—

"(A) in a situation where harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered;

"(B) the facilities of a vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(7)(A) An observer on a vessel (or the observer's personal representative) under the requirements of this section or section 104 that is ill, disabled, injured, or killed from service as an observer on that vessel may not bring a civil action under any law of the United States for that illness, disability, injury, or death against the vessel or vessel owner, except that a civil action may be brought against the vessel owner for the owner's willful misconduct.

"(B) This paragraph does not apply if the observer is engaged by the owner, master, or individual in charge of a vessel to perform any duties in service to the vessel.

Appropriation authorization.

"(8) There are authorized to be appropriated to the Department of Commerce for the purposes of carrying out this subsection not to exceed $2,700,000 for fiscal year 1989 and not to exceed $8,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.

"(f)(1) The Secretary shall establish an alternative observation program to provide statistically reliable information on the species and number of marine mammals incidentally taken in those fisheries identified pursuant to subsection (b)(1)(A)(i) of this section for which the required level of observer coverage has not been met or for any other fisheries about which such reliable information is not otherwise available. The alternative program shall include, but not be limited to, direct observation of fishing activities from vessels, airplanes, or points on shore.

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"(2) Individuals engaged in the alternative observation program shall collect scientific information on the fisheries subject to observation, consistent with the requirements of paragraph (1) and subsection (e) (4) and (5). All information collected shall be subject to the provisions of subsection (j).

"(g)(1) The Secretary shall review information regarding the incidental taking of marine mammals and evaluate the effects of such incidental taking on the affected population stocks of marine mammals.

Regulations.

"(2) If the Secretary finds, based on the information received from the programs established under subsections (c), (d), (e), and (f), that the incidental taking of marine mammals in a fishery is having an immediate and significant adverse impact on a marine mammal population stock or, in the case of Steller sea lions and North Pacific fur seals, that more than 1,350 and 50, respectively, will be incidentally killed during a calendar year, the Secretary shall consult with appropriate Regional Fishery Management Councils and State fishery managers and prescribe emergency regulations to prevent to the maximum extent practicable any further taking. Any emergency regulations prescribed under this paragraph—

"(A) shall, to the maximum extent practicable, avoid interfering with existing State or regional fishery management plans;

Federal Register, publication.

"(B) shall be published in the Federal Register together with the reasons therefor;

"(C) shall remain in effect for not more than one hundred and eighty days or until the end of the fishing season, whichever is earlier; and

"(D) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination if the Secretary determines the reasons for the emergency regulations no longer exist.

In prescribing emergency regulations under this paragraph, the Secretary shall take into account the economics of the fishery

concerned and the availability of existing technology to prevent or minimize incidental taking of marine mammals.

State and local governments.

"(3) If the Secretary finds, based on information received from the programs established under subsections (c), (d), (e), and (f), that incidental taking of marine mammals in a fishery is not having an immediate and significant adverse impact on a marine mammal population stock but that it will likely have a significant adverse impact over a period of time longer than one year, the Secretary shall request the appropriate Regional Fishery Management Council or State to initiate, recommend, or take such action within its authority as it considers necessary to mitigate the adverse impacts, including adjustments to requirements on fishing times or areas or the imposition of restrictions on the use of vessels or gear.

"(4) The Secretary shall impose appropriate conditions and restrictions on an exemption granted under subsection (b) if—

"(A) a Regional Fishery Management Council or State does not act in a reasonable period of time on a request made by the Secretary under paragraph (3); or

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"(B) if the Secretary determines after notice and opportunity for public comment that the purposes of this section would be better served by such action.

"(h) The Secretary shall design and implement an information management system capable of processing and analyzing reports received from the programs established under subsections (c), (d), (e), and (f), and other relevant sources, including Federal and State enforcement authorities, marine mammal stranding networks, and the marine mammal researchers. The information shall be made accessible to the public on a continuing basis, but in any case no later than six months after it is received, subject to the provisions of subsection (j).

Public information.

"(i) When carrying out the Secretary's responsibilities under subsections (b), (d), (e), (f), and (h) of this section, the Secretary shall, to the maximum extent practicable, utilize the services and programs of State agencies, Federal agencies (including programs established by Regional Fishery Management Councils), marine fisheries commissions, universities, and private entities, on a reimbursable basis or otherwise. The Secretary is authorized to enter into contracts and agreements to carry out his or her responsibilities and shall establish appropriate guidelines to ensure that other programs used or contracted for will meet the same standards as a program established by the Secretary. A person contracting with the Secretary to provide observer services under subsection (e) of this section must provide evidence of financial responsibility in an amount and form prescribed by the Secretary to compensate employees (or their survivors) adequately for any illness, disability, injury, or death from service on a vessel.

Contracts.

"(j)(1) Any information collected under subsection (c), (d), (e), (f), or (h) of this section shall be confidential and shall not be disclosed except—

Classified information.

"(A) to Federal employees whose duties require access to such information;

"(B) to State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order; or

"(D) in the case of scientific information involving fisheries, to employees of Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

"(2) The Secretary shall prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary shall release or make public any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person.

Public information.

"(k) The Secretary, in consultation with any other Federal agency to the extent that such agency may be affected, shall prescribe such

Regulations.

regulations as necessary and appropriate to carry out the purposes of this section.

Public information.

"(l)(1) The Chairman of the Marine Mammal Commission shall, after consultation with interested parties and not later than February 1, 1990, transmit to the Secretary and make available to the public recommended guidelines to govern the incidental taking of marine mammals in the course of commercial fishing operations, other than those subject to section 104(h)(2), after October 1, 1993.

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Such guidelines shall be developed by the Commission and its Committee of Scientific Advisers on Marine Mammals and shall—

"(A) be designed to provide a scientific rationale and basis for determining how many marine mammals may be incidentally taken under a regime to be adopted to govern such taking after October 1, 1993;

"(B) be based on sound principles of wildlife management, and be consistent with and in furtherance of the purposes and policies set forth in this Act; and

"(C) to the maximum extent practicable, include as factors to be considered and utilized in determining permissible levels of such taking—

"(i) the status and trends of the affected marine mammal population stocks;

"(ii) the abundance and annual net recruitment of such stocks;

"(iii) the level of confidence in the knowledge of the affected stocks; and

"(iv) the extent to which incidental taking will likely cause or contribute to their decline or prevent their recovery to optimum sustainable population levels.

"(2) The Secretary shall advise the Chairman of the Commission in writing if the Secretary determines that any additional information or explanation of the Chairman's recommendations is needed, and the Chairman shall respond in writing to any such request by the Secretary.

Federal Register, publication.

"(3) On or before February 1, 1991, the Secretary, after consultation with the Marine Mammal Commission, Regional Fishery Management Councils, and other interested governmental and nongovernmental organizations, shall publish in the Federal Register, for public comment, the suggested regime that the Secretary considers should, if authorized by enactment of any additional legislation, govern incidental taking of marine mammals, other than those subject to section 104(h)(2), after October 1, 1993. The suggested regime shall include—

"(A) the scientific guidelines to be used in determining permissible levels of incidental taking;

"(B) a description of the arrangements for consultation and cooperation with other Federal agencies, the appropriate Regional Fishery Management Councils and States, the commercial fishing industry, and conservation organizations; and

"(C) a summary of such regulations and legislation as would be necessary to implement the suggested regime.

"(4) On or before January 1, 1992, the Secretary, after consultation with the Marine Mammal Commission, and consideration of public comment, shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives recommendations pertaining to the incidental taking of marine mammals, other than those subject to section 104(h)(2), after October 1, 1993. The recommendations shall include—

"(A) the suggested regime developed under paragraph (3) of this subsection as modified after comment and consultations;

"(B) a proposed schedule for implementing the suggested regime; and

"(C) such recommendations for additional legislation as the Secretary considers necessary or desirable to implement the suggested regime. 102 STAT. 4763

"(m) The Secretary shall consult with the Secretary of the Interior prior to taking actions or making determinations under this section that affect or relate to species or population stocks of marine mammals for which the Secretary of the Interior is responsible under this title.

"(n) For the purposes of this section, the owner of fixed or other commercial fishing gear that is deployed with or without the use of a vessel shall be deemed to be an owner of a vessel engaged in the fishery in which that gear is deployed.

"(o) As used in this section—

"(1) the term 'fishery' has the same meaning as it does in section 3(8) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(8)).

"(2) the term 'Secretary' means the Secretary of Commerce.

"(3) the term 'vessel engaged in a fishery' means a fishing vessel as defined in section 2101(11a) of title 46, United States Code, or a fish processing vessel as defined in section 2101(11b) of that title, which is engaged in fishery.

"(4) the term 'vessel of the United States' has the same meaning as it does in section 3(27) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(27)).".

(b) Section 102(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(a)) is amended by striking "and 113" and inserting in lieu thereof the following: "113, and 114".

(c) The table of contents contained in the first section of the Marine Mammal Protection Act of 1972 is amended by striking:

"Sec. 114. Authorization of Appropriations."

and inserting in lieu thereof the following:

"Sec. 114. Interim Exemption for Commercial Fisheries.
"Sec. 115. Status Review; Conservation Plans.
"Sec. 116. Authorization of Appropriations.".

STATUS REVIEW

SEC. 3. (a) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by inserting immediately after section 114, as added by section 2 of this Act, the following new section:

"STATUS REVIEW; CONSERVATION PLANS

"SEC. 115. (a)(1) In any action by the Secretary to determine if a species or stock should be designated as depleted, or should no longer be designated as depleted, regardless of whether such action is taken on the initiative of the Secretary or in response to a petition for a status review, the Secretary shall only make such a determination by issuance of a rule, after notice and opportunity for public comment and after a call for information in accordance with paragraph (2). 16 USC 1383b.

"(2) The Secretary shall make any determination described in paragraph (1) solely on the basis of the best scientific information available. Prior to the issuance of a proposed rule concerning any such determination, the Secretary shall publish in the Federal Register a call to assist the Secretary in obtaining scientific information from individuals and organizations concerned with the conservation of marine mammals, from persons in any industry which might be affected by the determination, and from academic institutions. In addition, the Secretary shall utilize, to the extent the Secretary determines to be feasible, informal working groups of interested parties and other methods to gather the necessary information. Federal Register, publication. 102 STAT. 4764

Federal Register, publication. Public information. Federal Register, publication.

"(3)(A) If the Secretary receives a petition for a status review as described in paragraph (1), the Secretary shall publish a notice in the Federal Register that such a petition has been received and is available for public review.

"(B) Within sixty days after receipt of the petition, the Secretary shall publish a finding in the Federal Register as to whether the petition presents substantial information indicating that the petitioned action may be warranted.

"(C) If the Secretary makes a positive finding under subparagraph (B), the Secretary shall include in the Federal Register notice, a finding that—

"(i) a review of the status of the species or stock will be commenced promptly; or

"(ii) a prompt review of the petition is precluded by other pending status determination petitions and that expeditious progress is being made to process pending status determination petitions under this title.

In no case after making a finding under this subparagraph shall the Secretary delay commencing a review of the status of a species or stock for more than one hundred and twenty days after receipt of the petition.

Federal Register, publication.

"(D) No later than two hundred and ten days after the receipt of the petition, the Secretary shall publish in the Federal Register a proposed rule as to the status of the species or stock, along with the reasons underlying the proposed status determination. Persons shall have at least sixty days to submit comments on such a proposed rule.

"(E) Not later than ninety days after the close of the comment period on a proposed rule issued under subparagraph (D), the Secretary shall issue a final rule on the status of the species or stock involved, along with the reasons for the status determination. If the Secretary finds with respect to such a proposed rule that there is substantial disagreement regarding the sufficiency or accuracy of the available information relevant to a status determination, the Secretary may delay the issuance of a final rule for a period of not more than six months for purposes of soliciting additional information.

"(F) Notwithstanding subparagraphs (D) and (E) of this paragraph and section 553 of title 5, United States Code, the Secretary may issue a final rule as to the status of a species or stock any time sixty or more days after a positive finding under subparagraph (B) if the Secretary determines there is substantial information available to warrant such final status determination and further delay would pose a significant risk to the well-being of any species or stock. Along with the final rule, the Secretary shall publish in the Federal Register detailed reasons for the expedited determination.

Federal Register, publication.

"(b)(1) The Secretary shall prepare conservation plans—

"(A) By December 31, 1989, for North Pacific fur seals;

"(B) by December 31, 1990, for Steller sea lions; and

"(C) as soon as possible, for any species or stock designated as depleted under this title, except that a conservation plan need not be prepared if the Secretary determines that it will not promote the conservation of the species or stock.

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"(2) Each plan shall have the purpose of conserving and restoring the species or stock to its optimum sustainable population. The Secretary shall model such plans on recovery plans required under section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f)).

"(3) The Secretary shall act expeditiously to implement each conservation plan prepared under paragraph (1). Each year, the Secretary shall specify in the annual report prepared under section 103(f) of this title what measures have been taken to prepare and implement such plans.".

TAKING OF PORPOISE IN TUNA FISHERY

Business and industry. Commerce and trade.

SEC. 4. (a) Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B)—

(A) in clause (ii), by striking the period at the end and inserting in lieu thereof a comma; and

(B) by adding at the end, flush with the margin, the following:

"except that the Secretary shall not find that the regulatory program, or the average rate of incidental taking by vessels, of a harvesting nation is comparable to that of the United States for purposes of clause (i) or (ii) of this paragraph unless—

"(I) the regulatory program of the harvesting nation includes, by no later than the beginning of the 1990 fishing season, such prohibitions against encircling pure schools of species of marine mammals, conducting sundown sets, and other activities as are made applicable to United States vessels;

"(II) the average rate of the incidental taking by vessels of the harvesting nation is no more than 2.0 times that of United States vessels during the same period by the end of the 1989 fishing season and no more than 1.25 times that of United States vessels during the same period by the end of the 1990 fishing season and thereafter;

"(III) the total number of eastern spinner dolphin (Stenella longirostris) incidentally taken by vessels of the harvesting nation during the 1989 and subsequent fishing seasons does not exceed 15 percent of the total number of all marine mammals incidentally taken by such vessels in such year and the total number of coastal spotted dolphin (Stenella attenuata) incidentally taken by such vessels in such seasons does not exceed 2 percent of the total number of all marine mammals incidentally taken by such vessels in such year;

"(IV) the rate of incidental taking of marine mammals by the vessels of the harvesting nation during the 1989 and subsequent fishing seasons is monitored by the porpoise mortality observer program of the Inter-American Tropical Tuna Commission or an equivalent international program in which the United States participates and is based upon observer coverage that is equal to that achieved for United States vessels during the same period, except that the Secretary may approve an alternative observer program if the Secretary determines, no less than sixty days after publication in the Federal Register of the Secretary's proposal and reasons therefor, that such an alternative observer program will provide sufficiently reliable documentary evidence of the average rate of incidental taking by a harvesting nation; and

"(V) the harvesting nation complies with all reasonable requests by the Secretary for cooperation in carrying out the scientific research program required by section 104(h)(3) of this title;"; and

(3) by adding at the end the following new subparagraphs:

"(C) shall require the government of any intermediary nation from which yellowfin tuna or tuna products will be exported to the United States to certify and provide reasonable proof that it has acted to prohibit the importation of such tuna and tuna products from any nation from which direct export to the United States of such tuna and tuna products is banned under

Exports. Imports.

this section within sixty days following the effective date of such ban on importation to the United States; and

Imports.

"(D) shall, six months after importation of yellowfin tuna or tuna products has been banned under this section, certify such fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)) for as long as such ban is in effect.".

International agreements.

(b) Paragraph (2) of section 108(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1378(a)) is amended to read as follows:

"(2) initiate—

"(A) negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which are found by the Secretary to be unduly harmful to any species or population stock of marine mammal, for the purpose of entering into bilateral and multilateral treaties with such countries to protect marine mammals, with the Secretary of State to prepare a draft agenda relating to this matter for discussion at appropriate international meetings and forums; and

Conservation.

"(B) discussions with foreign governments whose vessels harvest yellowfin tuna with purse seines in the eastern tropical Pacific Ocean, for the purpose of concluding, through the Inter-American Tropical Tuna Commission or such other bilateral or multilateral institutions as may be appropriate, international arrangements for the conservation of marine mammals taken incidentally in the course of harvesting such tuna, which should include provisions for (i) cooperative research into alternative methods of locating and catching yellowfin tuna which do not involve the taking of marine mammals, (ii) cooperative research on the status of affected marine mammal population stocks, (iii) reliable monitoring of the number, rate, and species of marine mammals taken by vessels of harvesting nations, (iv) limitations on incidental take levels based upon the best scientific information available, and (v) the use of the best marine mammal safety techniques and equipment that are economically and technologically practicable to reduce the incidental kill and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate;".

102 STAT. 4767

(c) Section 108 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1378) is amended by adding at the end the following new subsection:

"(c) The Secretary shall include a description of the annual results of discussions initiated and conducted pursuant to subsection (a)(2)(B), as well as any proposals for further action to achieve the purposes of that subsection, in the report required under section 103(f) of this title.".

(d) Section 104(h)(2)(B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(h)(2)(B)) is amended by adding at the end the following new clauses:

Regulations.

"(iv) The Secretary shall, by January 1, 1989, prescribe regulations to ensure that the backdown procedure during sets of the purse seine net on marine mammals is completed and rolling of the net to sack up has begun no later than thirty minutes after sundown. The Secretary may waive or otherwise modify such regulations for—

"(I) a designated certificate holder on an observed trip if the Secretary determines, based on observer reports, that such restriction is not necessary because the certificate holder has consistently utilized fishing techniques and equipment so as to result in an incidental marine mammal mortality rate during sundown sets that is no higher than the average such rate for the fleet during daylight sets; or

"(II) all certificate holders on observed trips if the Secretary determines that such restriction is not necessary because all certificate holders have developed and are utilizing fishing techniques and equipment that assure that the incidental marine mammal mortality rate during sundown sets will be no higher than such rate during daylight sets.

"(v) The Secretary may authorize, after public notice and opportunity for comment, designated certificate holders to conduct experimental fishing operations on observed trips, under such terms and conditions as the Secretary may prescribe, for the purpose of testing proposed improvements in fishing techniques and equipment that may reduce the incidental mortality of marine mammals in the course of commercial yellowfin tuna fishing operations, and the Secretary may waive such terms and conditions of the general permit and this section, other than the quotas on incidental taking of marine mammals and the prohibition against encircling pure schools of certain species of marine mammals, as the Secretary determines to be necessary and appropriate for the conduct of such experimental fishing.

"(vi) The Secretary, after public notice and opportunity for comment and consultation with the skippers' panel of experts established pursuant to the general permit, shall develop and implement by not later than the beginning of the 1990 fishing season a system of performance standards to maintain the diligence and proficiency of certificate holders in the use of the best marine mammal safety techniques and equipment that are 102 STAT. 4768 economically and technologically practicable. The system shall include such arrangements as are necessary for the identification of certificate holders whose incidental marine mammal mortality rate is consistently and substantially higher than the average rate of the fleet, and for the supplemental training and observation of such certificate holders, and provisions for suspension or revocation of certificates of inclusion of those certificate holders whose unacceptably high rate of incidental taking reflects a lack of diligence or proficiency in the use of the best marine mammal safety techniques and equipment.

"(vii) It shall be unlawful to use any explosive devices other than class C explosive pest control devices in the course of commercial yellowfin tuna fishing subject to the general permit. The Secretary shall prescribe regulations, effective April 1, 1990, to prohibit or restrict the use of class C explosive pest control devices in the course of commercial yellowfin tuna fishing unless the Secretary determines, based on a study which the Secretary shall undertake, that the use of such devices does not result in physical impairment or increased mortality of marine mammals.

Arms and munitions. Pests and pesticides. Regulations.

"(viii) During the 1989 and subsequent fishing seasons, each certificated vessel shall carry on every fishing trip subject to this subsection an official observer certified by the Secretary or by the Inter-American Tropical Tuna Commission for the purpose of conducting research and observing fishing operations unless, for reasons beyond the control of the Secretary, an observer is not available for such purpose. The Secretary may waive this requirement after the 1991 fishing season and establish a less extensive observer program if the Secretary, after notice and opportunity for comment, determines that such an alternative program will provide sufficiently reliable information.

"(ix) The Secretary shall annually convene meetings with representatives of conservation and environmental organizations, the commercial tuna fishing industry, and other interested persons for the purpose of discussing the results of efforts to reduce the incidental mortality and serious injury of marine mammals under this subsection as well as throughout the international fleet as a whole and developing plans for such efforts during the next year. On or before April 1, 1992, the

Reports.

Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a comprehensive report on the results of such efforts. The report shall discuss the results of the scientific research programs, performance standards, observer program, prohibition on sundown sets, development of alternative fishing techniques, and other efforts required by this section, and shall include recommendations for such action as the Secretary considers necessary and desirable to reduce further the total mortality and serious injury of marine mammals in the course of commercial yellowfin tuna fishing throughout the international fleet.".

(e) Section 110(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1380(a)) is amended—

(1) immediately before "The Secretary" at the beginning of the first sentence, by inserting "(1)"; and

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(2) by adding at the end the following new paragraph:

Research and development. Contracts.

"(2) For purposes of identifying appropriate research into promising new methods of locating and catching yellowfin tuna without the incidental taking of marine mammals, the Secretary shall contract for an independent review of information pertaining to such potential alternative methods to be conducted by the National Academy of Sciences with individuals having scientific, technical, or other expertise that may be relevant to the identification of promising alternative fishing techniques. The Secretary shall request that the independent review be submitted to the Secretary on or before September 8, 1989, and the Secretary shall submit the report of the independent review, together with a proposed plan for research, development, and implementation of alternative fishing techniques, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on or before December 5, 1989.".

Reports.

SCIENTIFIC RESEARCH AND PUBLIC DISPLAY PERMITS

SEC. 5. (a) Section 109(h) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1379(h)) is amended to read as follows:

"(h)(1) Nothing in this title shall prevent a Federal, State, or local government official or employee or a person designated under section 112(c) from taking, in the course of his or her duties as an official, employee, or designee, a marine mammal in a humane manner (including euthanasia) if such taking is for—

"(A) the protection or welfare of the mammal,

Public health and safety.

"(B) the protection of the public health and welfare, or

"(C) the nonlethal removal of nuisance animals.

Imports.

"(2) Nothing in this title shall prevent the Secretary or a person designated under section 112(c) from importing a marine mammal into the United States if such importation is necessary to render medical treatment that is not otherwise available.

"(3) In any case in which it is feasible to return to its natural habitat a marine mammal taken or imported under circumstances described in this subsection, steps to achieve that result shall be taken.".

(b) Section 102(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(b)) is amended by adding at the end the following new sentence, flush with the margin:

Imports.

"Notwithstanding the provisions of paragraphs (1) and (2), the Secretary may issue a permit for the importation of a marine mammal, if the Secretary determines that such importation is necessary for the protection or welfare of the animal.".

(c) Paragraph (1) of section 101(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)) is amended to read as follows:

Imports.

"(1) Consistent with the provisions of section 104, permits may be issued by the Secretary for taking and importation for purposes of scientific research, public display, or enhancing the survival or recovery of a species or stock if—".

(d) Section 104(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)) is amended—

(1) by striking "display or scientific research" each place it appears and inserting in lieu thereof the following: "scientific research, public display, or enhancing the survival or recovery of a species or stock";

(2) by inserting "(1)" immediately after "(c)"; and

(3) by adding at the end the following new paragraphs: 102 STAT. 4770

"(2) A permit may be issued for public display purposes only to an applicant which offers a program for education or conservation purposes that, based on professionally recognized standards of the public display community, is acceptable to the Secretary and which submits with the permit application information indicating that the applicant's facilities are open to the public on a regularly scheduled basis and that access to the facilities is not limited or restricted other than by the charging of an admission fee.

"(3) A permit may be issued for scientific research purposes only to an applicant which submits with its permit application information indicating that the taking is required to further a bona fide scientific purpose and does not involve unnecessary duplication of research. No permit issued for purposes of scientific research shall authorize the killing of a marine mammal unless the applicant demonstrates that a nonlethal method for carrying out the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock designated as depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

"(4)(A) A permit may be issued for enhancing the survival or recovery of a species or stock only with respect to a species or stock for which the Secretary, after consultation with the Marine Mammal Commission and after notice and opportunity for public comment, has first determined that—

"(i) taking or importation is likely to contribute significantly to maintaining or increasing distribution or numbers necessary to ensure the survival or recovery of the species or stock; and

"(ii) taking or importation is consistent (I) with any conservation plan adopted by the Secretary under section 115(b) of this title or any recovery plan developed under section 4(f) of the Endangered Species Act of 1973 for the species or stock, or (II) if there is no conservation or recovery plan in place, with the Secretary's evaluation of the actions required to enhance the survival or recovery of the species or stock in light of the factors that would be addressed in a conservation plan or a recovery plan.

"(B) A permit issued in accordance with this paragraph may allow the captive maintenance of a marine mammal from a depleted species or stock only if the Secretary—

"(i) determines that captive maintenance is likely to contribute to the survival or recovery of the species or stock by maintaining a viable gene pool, increasing productivity, providing biological information, or establishing animal reserves;

"(ii) determines that the expected benefit to the affected species or stock outweighs the expected benefit of alternatives which do not require removal of animals from the wild; and

"(iii) requires that the marine mammal or its progeny be returned to the natural habitat of the species or stock as soon as feasible, consistent with the objectives of any applicable conservation plan or recovery plan, or of any evaluation by the Secretary under subparagraph (A).

The Secretary may allow the public display of such a marine mammal only if the Secretary determines that such display is incidental to the authorized maintenance and will not interfere with the attainment of the survival or recovery objectives.". 102 STAT. 4771

(e)(1) Section 101(a)(3)(B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(3)(B)) is amended by inserting, immediately

after "scientific research purposes", the following: "or enhancing the survival or recovery of a species or stock".

(2) Section 102(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(b)) is amended by striking "research" and inserting in lieu thereof the following: "research, or for enhancing the survival or recovery of a species or stock,".

(3) Section 109(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1379(b)) is amended—

(A) in paragraph (1)(E), by striking "research and public display purposes" and inserting in lieu thereof the following: "research, public display, or enhancing the survival or recovery of a species or stock"; and

(B) in paragraph (3)(B)(ii), by striking "research or public display purposes" and inserting in lieu thereof the following: "research, public display, or enhancing the survival or recovery of a species or stock".

(4) Section 202(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1402(a)(2)) is amended by inserting, immediately after "scientific research", the following: ", public display, or enhancing the survival or recovery of a species or stock".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. Section 7 of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384 and 1407) is amended—

(1) in subsection (a), by adding at the end the following new sentence: "There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out such functions and responsibilities as it may have been given under such title (other than section 114(e)(8)), $12,250,000 for fiscal year 1989, $12,740,000 for fiscal year 1990, $13,250,000 for fiscal year 1991, $13,780,000 for fiscal year 1992, and $14,331,000 for fiscal year 1993.";

(2) in subsection (b)—

(A) by striking "and" immediately after "1985,"; and

(B) by striking "and 1988" and inserting in lieu thereof the following: "1988, and 1989, $3,120,000 for fiscal year 1990, $3,240,000 for fiscal year 1991, $3,370,000 for fiscal year 1992, and $3,500,000 for fiscal year 1993"; and

(3) in subsection (c)—

(A) by striking "and" immediately after "1983,"; and

(B) by striking "and 1988" and inserting in lieu thereof the following: "1988, and 1989, $1,140,000 for fiscal year 1990, $1,190,000 for fiscal year 1991, $1,230,000 for fiscal year 1992, and $1,280,000 for fiscal year 1993".

STUDY ON MORTALITY OF ATLANTIC DOLPHIN

Diseases.
16 USC 1361 note.

SEC. 7. (a) The Secretary of Commerce shall conduct a study regarding the east coast epidemic during 1987 and 1988 which has caused substantial mortality within the North Atlantic coastal population of Atlantic bottle-nosed dolphin. The study shall examine—

102 STAT. 4772

(1) the cause or causes of the epidemic;

(2) the effect of the epidemic on coastal and offshore populations of Atlantic bottle-nosed dolphin;

(3) the extent to which pollution may have contributed to the epidemic;

(4) whether other species and populations of marine mammals were affected by those factors which contributed to the epidemic; and

(5) any other matters pertaining to the causes and effects of the epidemic.

(b) On or before January 1, 1989, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a plan for conducting the study required in subsection (a).

AMENDMENTS TO FISHERMEN'S PROTECTIVE ACT OF 1967

SEC. 8. Section 8(h)(4) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)(4)) is amended to read as follows:

"(4) The term "fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from an offending country, whether or not taken by fishing vessels of such country, or packed, processed, or otherwise prepared for export in such country or within the jurisdiction thereof."

PRIBILOF ISLAND TRUST FUNDS

SEC. 9. Section 206(e)(1) of the Fur Seal Act of 1966 (16 U.S.C. 1166(e)(1)) is amended by adding at the end the following new sentence: "In addition, there are authorized to be appropriated to the Secretary $3,200,000 for fiscal year 1989 and $1,800,000 for fiscal year 1990 to be used for the purpose of funding the Saint Paul Island Trust, as established pursuant to subsection (a)(1) of this section, and $3,700,000 for fiscal year 1990 to be used for the purpose of funding the Saint George Trust, as established pursuant to subsection (a)(1).". Appropriation authorization.

Approved November 23, 1988.

LEGISLATIVE HISTORY—H.R. 4189 (S. 2810):

HOUSE REPORTS: No. 100-970 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 100-592 accompanying S. 2810 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 14, considered and passed Senate, amended, in lieu of S. 2810.
Oct. 19, House concurred in Senate amendment with an amendment.
Oct. 21, Senate concurred in House amendment.

Public Law 100-370
100th Congress

102 STAT. 840

An Act

To amend title 10, United States Code, to codify in that title certain defense-related permanent free-standing provisions of law.

July 19, 1988
[H.R. 4229]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CODIFICATION OF CERTAIN PERMANENT PROVISIONS OF LAW IN TITLE 10, UNITED STATES CODE.

Armed Forces.

(a) ENLISTMENT QUALIFICATIONS.—(1) Section 520(b) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof the following: "; however, a person may not be denied enlistment in the armed forces solely because of his not having a high school diploma if his enlistment is needed to meet established strength requirements.".

(2) Section 3262 of title 10, United States Code, is amended by striking out "Of" and inserting in lieu thereof "Notwithstanding section 520(b) of this title, of".

(3) Section 401 of the Department of Defense Supplemental Appropriation Authorization Act, 1974 (Public Law 93-307; 88 Stat. 234), is repealed.

10 USC 520 note.

(b) CAP ON NUMBER OF GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.—(1) Chapter 32 of title 10, United States Code, is amended—

(A) by redesignating section 526 as section 527; and

(B) by inserting after section 525 the following new section 526:

"§ 526. Authorized strength: general and flag officers on active duty

10 USC 526.

"The total number of general officers on active duty in the Army, Air Force, and Marine Corps and flag officers on active duty in the Navy may not exceed 1,073.".

(2)(A) Section 527 (as redesignated by paragraph (1)(A)) is amended by striking out "or 525" and inserting in lieu thereof "525, or 526".

(B) The heading of such section is amended to read as follows:

"§ 527. Authority to suspend sections 523, 524, 525, and 526".

(3) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 526 and inserting in lieu thereof the following:

"526. Authorized strength: general and flag officers on active duty.
"527. Authority to suspend sections 523, 524, 525, and 526.".

(4) Section 811(a) of the Department of Defense Appropriation Authorization Act, 1978 (10 U.S.C. 523 note), is repealed.

(c) COMMISSARY AND EXCHANGE ELIGIBILITY.—(1) Part II of subtitle A of title 10, United States Code, is amended by inserting after chapter 53 the following new chapter:

102 STAT. 841

"CHAPTER 54—COMMISSARY AND EXCHANGE BENEFITS

"Sec.
"1061. Survivors of certain Reserve and Guard members.
"1062. Certain former spouses.
"1063. Period for use of commissary stores: eligibility attributable to active duty for training.

10 USC 1061.

"§ 1061. Survivors of certain Reserve and Guard members

Regulations.

"(a) BENEFITS.—The Secretary of Defense shall prescribe regulations to allow dependents of members of the uniformed services described in subsection (b) to use commissary and exchange stores on the same basis as dependents of members of the uniformed services who die while on active duty for a period of more than 30 days.

"(b) COVERED DEPENDENTS.—A dependent referred to in subsection (a) is a dependent of a member of a uniformed service who died—

"(1) while on active duty, active duty for training, or inactive-duty training (regardless of the period of such duty); or

"(2) while traveling to or from the place at which the member was to perform, or has performed, active duty, active duty for training, or inactive-duty training (regardless of the period of such duty).

10 USC 1062.

"§ 1062. Certain former spouses

Regulations.

"The Secretary of Defense shall prescribe such regulations as may be necessary to provide that an unremarried former spouse described in subparagraph (F)(i) of section 1072(2) of this title is entitled to commissary and exchange privileges to the same extent and on the same basis as the surviving spouse of a retired member of the uniformed services.".

(2)(A) Section 1052 of such title is transferred to the end of chapter 54 of such title (as added by paragraph (1)) and redesignated as section 1063.

(B) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to such section 1052.

(3) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of such title are each amended by inserting after the item relating to chapter 53 the following new item:

"54. Commissary and Exchange Benefits ..... 1061".

10 USC 1052 note.

(4) Section 308 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 618), is repealed.

(5) Section 1005 of the Uniformed Services Former Spouses' Protection Act (10 U.S.C. 1408 note) is repealed.

(d) FINANCIAL MANAGEMENT.—(1)(A) Chapter 131 of title 10, United States Code, is amended by inserting before section 2202 the following new section:

10 USC 2201.

"§ 2201. Apportionment of funds: authority for exemption; excepted expenses

Contracts.

"(a) EXEMPTION FROM APPORTIONMENT REQUIREMENT.—If the President determines such action to be necessary in the interest of national defense, the President may exempt from the provisions of section 1512 of title 31 appropriations, funds, and contract authorizations available for military functions of the Department of Defense.

102 STAT. 842

"(b) AIRBORNE ALERTS.—Upon a determination by the President that such action is necessary, the Secretary of Defense may provide for the cost of an airborne alert as an excepted expense under section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)).

"(c) MEMBERS ON ACTIVE DUTY.—Upon a determination by the President that it is necessary to increase (subject to limits imposed by law) the number of members of the armed forces on active duty beyond the number for which funds are provided in appropriation Acts for the Department of Defense, the Secretary of Defense may provide for the cost of such additional members as an excepted expense under section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)).

"(d) NOTIFICATION TO CONGRESS.—The Secretary of Defense—

"(1) shall immediately notify Congress of the use of any authority under this section; and

"(2) shall submit monthly reports to Congress on the estimated obligations incurred pursuant to subsections (b) and (c).". Reports.

(B) Section 8009 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1204)), is repealed. 10 USC 114 note.

(2)(A) Chapter 131 of title 10, United States Code, is further amended by inserting after section 2211 the following new section:

"§ 2212. Contracted advisory and assistance services: accounting procedures 10 USC 2212.

"(a) ACCOUNTING PROCEDURE.—The Secretary of Defense shall require that there be maintained within each military department an accounting procedure to aid in the identification and control of expenditures for services identified as contracted advisory and assistance services.

"(b) REGULATIONS TO IDENTIFY CONTRACTED ADVISORY AND ASSISTANCE SERVICES.—(1) The Secretary shall prescribe regulations which specifically describe—

"(A) those services which the Department of Defense considers to be contracted advisory and assistance services; and

"(B) of those services, which services are carried out in direct support of a weapons system and are essential to the development, production, or maintenance of the system.

"(2) In prescribing regulations under paragraph (1), the Secretary shall consider the following areas:

"(A) Management and professional services.

"(B) Special studies and analyses.

"(C) Management and support services for research and development activities.

"(D) Training.

"(E) Management review of program funded organizations.

"(F) Public relations.

"(G) Other consulting services.

"(H) Engineering development and operational systems development related to research and development activities and production activities.

"(I) Technical assistance.

"(J) Technical representation.

"(K) Quality control, testing, and inspection services.

"(L) Specialized medical services.

102 STAT. 843

"(M) Architectural and engineering services, other than in connection with construction.

"(N) Technical and management assistance for weapons systems management and review.

"(c) CONGRESSIONAL BUDGET DOCUMENTS.—Budget documents presented to Congress in support of the budget for the Department of Defense for any fiscal year—

"(1) shall identify the total amount requested for contracted advisory and assistance services (as defined under regulations prescribed under subsection (b));

"(2) shall identify the amount requested for each category of such services established by regulations prescribed under subsection (b); and

"(3) within each such category, shall separately set forth amounts for such services described in subsection (b)(1)(B).".

(B) Section 918 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145) is repealed. 10 USC 2304 note.

(3)(A) Chapter 131 of title 10, United States Code, is further amended by adding at the end the following new section:

"§ 2217. Comparable budgeting for common procurement weapon systems 10 USC 2217.

"(a) MATTERS TO BE INCLUDED IN ANNUAL DEFENSE BUDGETS.—In preparing the defense budget for any fiscal year, the Secretary of Defense shall—

"(1) specifically identify each common procurement weapon system included in the budget;

"(2) take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system; and

"(3) identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems.

"(b) COMPTROLLER.—The Secretary shall carry out this section through the Comptroller of the Department of Defense.

"(c) DEFINITIONS.—In this section:

"(1) The term 'defense budget' means the budget of the Department of Defense included in the President's budget submitted to Congress under section 1105 of title 31 for a fiscal year.

"(2) The term 'common procurement weapon system' means a weapon system for which two or more of the Army, Navy, Air Force, and Marine Corps request procurement funds in a defense budget.".

(B) Section 955 of the Defense Acquisition Improvement Act of 1986 is repealed. 10 USC 113 note.

(4) The table of sections at the beginning of chapter 131 of title 10 United States Code, is amended—

(A) by inserting before the item relating to section 2202 the following new item:

"2201. Apportionment of funds: authority for exemption; excepted expenses.";

(B) by inserting after the item relating to section 2211 the following new item:

"2212. Contracted advisory and assistance services: accounting procedures.";

102 STAT. 844

and

(C) by adding at the end the following new item:

"2217. Comparable budgeting for common procurement weapon systems.".

(e) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—(1) Subtitle A of title 10, United States Code, is amended by inserting after chapter 133 the following new chapter:

"CHAPTER 134—MISCELLANEOUS ADMINISTRATIVE PROVISIONS

"Subchapter Sec.
"I. Miscellaneous Authorities, Prohibitions, and Limitations on the Use of Appropriated Funds. 2241
"II. Miscellaneous Administrative Authority 2251

"SUBCHAPTER I—MISCELLANEOUS AUTHORITIES, PROHIBITIONS, AND LIMITATIONS ON THE USE OF APPROPRIATED FUNDS

"Sec.
"2241. Availability of appropriations for certain purposes.
"2242. Authority to use appropriated funds for certain investigations and security services.

10 USC 2241.

"§ 2241. Availability of appropriations for certain purposes

"(a) OPERATION AND MAINTENANCE APPROPRIATIONS.—Amounts appropriated to the Department of Defense for operation and maintenance of the active forces may be used for the following purposes:

"(1) Morale, welfare, and recreation.

"(2) Modification of personal property.

"(3) Design of vessels.

"(4) Industrial mobilization.

"(5) Military communications facilities on merchant vessels.

"(6) Acquisition of services, special clothing, supplies, and equipment.

"(7) Expenses for the Reserve Officers' Training Corps and other units at educational institutions.

"(b) NECESSARY EXPENSES.—Amounts appropriated to the Department of Defense may be used for all necessary expenses, at the seat of the Government or elsewhere, in connection with communication and other services and supplies that may be necessary for the national defense.

"§ 2242. Authority to use appropriated funds for certain investigations and security services 10 USC 2242.

"The Secretary of Defense and the Secretary of each military department may—

"(1) pay in advance for the expenses of conducting investigations in foreign countries incident to matters relating to the Department of Defense, to the extent such expenses are determined by the investigating officer to be necessary and in accord with local custom;

"(2) pay expenses incurred in connection with the administration of occupied areas;

"(3) pay expenses of military courts, boards, and commissions; and

102 STAT. 845

"(4) reimburse the Administrator of General Services for security guard services furnished by the Administrator to the Department of Defense for the protection of confidential files. Classified information.

"SUBCHAPTER II—MISCELLANEOUS ADMINISTRATIVE AUTHORITY

"Sec.
"2251. Household furnishings and other property: personnel outside the United States or in Alaska or Hawaii.
"2252. Rewards: missing property.
"2253. Motor vehicles.

"§ 2251. Household furnishings and other property: personnel outside the United States or in Alaska or Hawaii 10 USC 2251.

"(a) IN GENERAL.—Subject to subsection (b), the Secretary of the military department concerned may—

"(1) purchase household furnishings and automobiles from members of the armed forces and civilian employees of the Department of Defense on duty outside the United States or in Hawaii for resale at cost to incoming personnel; and

"(2) provide household furnishings, without charge, in other than public quarters occupied by members of the armed forces or civilian employees of the Department of Defense who are on duty outside the United States or in Alaska or Hawaii.

"(b) REQUIRED DETERMINATION.—The authority provided in subsection (a) may be used only when it is determined, under regulations approved by the Secretary of Defense, that the use of that authority would be advantageous to the United States.

"§ 2252. Rewards: missing property 10 USC 2252.

"The Secretary of Defense and the Secretary of each military department may pay a reward of not more than $500 in any case for information leading to the discovery of missing property under the jurisdiction of that Secretary or leading to the recovery of such property.

"§ 2253. Motor vehicles 10 USC 2253.

"(a) GENERAL AUTHORITIES.—The Secretary of Defense and the Secretary of each military department may—

"(1) provide for insurance of official motor vehicles in a foreign country when the laws of such country require such insurance; and Insurance.

"(2) purchase right-hand drive vehicles at a cost of not more than $12,000 each.

"(b) HIRE OF PASSENGER VEHICLES.—Amounts appropriated to the Department of Defense for operation and maintenance of the active forces may be used for the hire of passenger motor vehicles.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are each amended by inserting after the item relating to chapter 133 the following new item:

"134. Miscellaneous Administrative Provisions ..... 2241".

(3)(A) Section 7209 of such title is repealed.

(B) The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7209.

102 STAT. 846

(f) PROCUREMENT GENERALLY.—(1)(A) Section 2307 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) The Secretary of Defense shall ensure that any payment for work in progress (including materials, labor, and other items) under a defense contract that provides for such payments is commensurate with the work, which meets standards of quality established under the contract, that has been accomplished.

"(2) The Secretary shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under a defense contract so long as the Secretary has not made the contractual terms, specifications, and price definite.

"(3) This subsection does not apply to contracts for amounts less than the maximum amount for small purchases specified in section 2304(g)(2) of this title.".

(B) Section 916 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 688) is repealed.

10 USC 2307 note

(2)(A) Section 2324(e)(1) of such title (as amended by section 805 of Public Law 100-180) is amended by adding at the end the following new subparagraph:

Insurance.

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.".

(B) Section 2399 of such title is repealed.

(3)(A) Section 2324 of such title is further amended—

(i) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(ii) by inserting after subsection (i) the following new subsection (j):

"(j) In a proceeding before the Armed Services Board of Contract Appeals, the United States Claims Court, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the Department of Defense is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.".

(B) Section 933 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 700) is repealed.

10 USC 2324 note.

(g) RESEARCH AND DEVELOPMENT.—(1) Section 2361 of title 10, United States Code, is transferred within chapter 139 to appear immediately before section 2352, redesignated as section 2351, and amended—

(A) by inserting "(a)" before "Funds"; and

(B) by adding at the end the following new subsection:

"(b) Funds appropriated to the Department of Defense for research and development may be used—

"(1) for the purposes of section 2353 of this title; and

"(2) for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the Department of Defense.".

(2) Section 8015 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1205)), is repealed.

10 USC 2353 note.

(3) Section 2358 of title 10, United States Code, is amended—

(A) by inserting "(a) IN GENERAL.—" before "Subject to approval" in the first sentence;

(B) by striking out "or his designee" both places it appears; and

(C) by adding at the end the following new subsection: 102 STAT. 847

"(b) REQUIREMENT OF POTENTIAL MILITARY RELATIONSHIP.—Funds appropriated to the Department of Defense may not be used to finance any research project or study unless the project or study has, in the opinion of the Secretary of Defense, a potential relationship to a military function or operation.".

(4) The table of sections at the beginning of chapter 139 of title 10, United States Code, is amended—

(A) by inserting before the item relating to section 2352 the following new item:

"2351. Availability of appropriations.";

and

(B) by striking out the item relating to section 2361.

(5) Section 204 of Public Law 91-441 (10 U.S.C. 2358 note) is repealed.

(h) MISCELLANEOUS PROCUREMENT PROVISIONS.—(1)(A) Section 2389 of title 10, United States Code, is amended—

(i) by inserting "(a)" before "Under regulations"; and

(ii) by adding at the end the following new subsection:

"(b)(1) Funds appropriated to the Department of Defense may be used to purchase for enlisted members milk made available to the Department of Defense under section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a). Dairy products.

"(2) The cost of milk so purchased (as determined by the Secretary of Defense) shall be included in the value of the commuted ration of enlisted members.".

(B) The heading of such section is amended to read as follows:

"§ 2389. Contracts for the procurement of milk: price adjustments; purchases from the Commodity Credit Corporation".

(2) Chapter 141 of such title is amended by adding at the end the following new sections:

"§ 2410. Contract claims: certification 10 USC 2410.

"A contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85-804 (50 U.S.C. 1431 et seq.), or other similar request by a contractor that exceeds $100,000 may not be paid unless a senior official of the contractor in charge at the plant or location involved certifies at the time the claim or request is submitted that—

"(1) the claim or request is made in good faith; and

"(2) all supporting data submitted in connection with the claim or request are accurate and complete to the best of such official's knowledge and belief.

"§ 2410a. Appropriated funds: availability for certain contracts for 12 months 10 USC 2410a.

"Funds appropriated to the Department of Defense for a fiscal year shall be available for payments under contracts for any of the following purposes for 12 months beginning at any time during the fiscal year:

"(1) The maintenance of tools and facilities.

"(2) The lease of real or personal property, including the maintenance of such property when contracted for as part of the lease agreement. Real property.

"(3) Depot maintenance.". 102 STAT. 848

(3) The table of sections at the beginning of such chapter is amended—

(A) by striking out the item relating to section 2389 and inserting in lieu thereof the following:

"2389. Contracts for the procurement of milk: price adjustments; purchases from the Commodity Credit Corporation.";

(B) by striking out the item relating to section 2399; and

(C) by adding at the end the following new items:

"2410. Contract claims: certification.

"2410a. Appropriated funds: availability for certain contracts for 12 months.".

(i) OVERSIGHT OF MAJOR PROGRAMS.—(1) Section 2435 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) STABILITY OF PROGRAM MANAGERS.—(1) The tour of duty of an officer of the armed forces as a program manager of a major defense acquisition program shall be (A) not less than four years, or (B) until completion of a major program milestone (as defined in regulations prescribed by the Secretary of Defense).

"(2) The Secretary of the military department concerned may waive the length of the tour of duty prescribed in paragraph (1). The authority under the preceding sentence may not be delegated.".

(2) Section 1243 of the Defense Procurement Reform Act of 1984 (title XII of Public Law 98-525; 98 Stat. 2609) is repealed.

10 USC 2432 note.

(j) UTILITIES AND SERVICES.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2490.

"§ 2490. Utility services: furnishing for certain buildings

"Appropriations for the Department of Defense may be used for utility services for—

"(1) buildings constructed at private cost, as authorized by law; and

"(2) buildings on military reservations authorized by regulation to be used for morale, welfare, and recreational purposes.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2490. Utility services: furnishing for certain buildings.".

(k) INTERDEPARTMENTAL TRANSFER OF VESSELS.—(1) Chapter 153 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2578.

"§ 2578. Vessels: transfer between departments

"A vessel under the jurisdiction of a military department may be transferred or otherwise made available without reimbursement to another military department or to the Department of Transportation, and a vessel under the jurisdiction of the Department of Transportation may be transferred or otherwise made available without reimbursement to a military department. Any such transfer may be made only upon the request of the Secretary of the military department concerned or the Secretary of Transportation, as the case may be, and with the approval of the Secretary of the department having jurisdiction of the vessel.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

102 STAT. 849

"2578. Vessels: transfer between departments.".

(3) Section 8012 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (40 U.S.C 483a)), is repealed.

(l) REAL PROPERTY.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2672a the following new section:

10 USC 2673.

"§ 2673. Acquisition of certain interests in land: availability of funds

"Appropriations available to the Department of Defense for maintenance or construction may be used for the acquisition of land or interests in land under section 2672 of this title and for the acquisition of interests in land under section 2675 of this title.".

(2) Section 2828 of such title is amended by adding at the end the following new subsection:

"(h) Appropriations available to the Department of Defense for maintenance or construction may be used for the acquisition of interests in land under this section.".

(3) Chapter 159 of such title is further amended by inserting after the table of sections the following new section:

"§ 2661. Miscellaneous administrative provisions relating to real property 10 USC 2661.

"(a) Appropriations for operation and maintenance of the active forces shall be available for the following:

"(1) The repair of facilities.

"(2) The installation of equipment in public and private plants.

"(b) The Secretary of Defense and the Secretary of each military department may provide for the following:

"(1) The leasing of buildings and facilities (including the payment of rentals for special purpose space at the seat of Government). Rental for such leases may be paid in advance in connection with— Contracts.

"(A) the conduct of field exercises and maneuvers; and

"(B) the administration of the Act of July 9, 1942 (43 U.S.C. 315q).

"(2) The maintenance of defense access roads which are certified to the Secretary of Transportation as important to the national defense under the provisions of section 210 of title 23.". Highways.

(4) The table of sections at the beginning of such chapter is amended—

(A) by inserting before the item relating to section 2662 the following new item:

"2661. Miscellaneous administrative provisions relating to real property.";

and

(B) by inserting after the item relating to section 2672a the following new item:

"2673. Acquisition of certain interests in land: availability of funds.".

(m) ACCOUNTABILITY AND RESPONSIBILITY.—(1) Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section: 102 STAT. 850

"§ 2781. Availability of appropriations: exchange fees; losses in accounts 10 USC 2781.

"Amounts appropriated to the Department of Defense may be used for—

"(1) exchange fees; and

"(2) losses in the accounts of disbursing officials and agents in accordance with law.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2781. Availability of appropriations: exchange fees; losses in accounts.".

(n) SHIP OVERHAUL WORK.—(1) Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7313. Ship overhaul work: availability of appropriations for unusual cost overruns and for changes in scope of work Contracts. 10 USC 7313.

"(a) UNUSUAL COST OVERRUNS.—(1) Appropriations available to the Department of Defense for a fiscal year may be used for payment of unusual cost overruns incident to ship overhaul, maintenance, and repair for a vessel inducted into an industrial-fund activity or contracted for during a prior fiscal year.

"(2) The Secretary of Defense shall notify Congress promptly before an obligation is incurred for any payment under paragraph (1).

"(b) CHANGES IN SCOPE OF WORK.—An appropriation available to the Department of Defense for a fiscal year may be used after the otherwise-applicable expiration of the availability for obligation of that appropriation—

"(1) for payments to an industrial-fund activity for amounts required because of changes in the scope of work for ship

overhaul, maintenance, and repair, in the case of work inducted into the industrial-fund activity during the fiscal year; and

"(2) for payments under a contract for amounts required because of changes in the scope of work, in the case of a contract entered into during the fiscal year for ship overhaul, maintenance, and repair.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7313. Ship overhaul work: availability of appropriations for unusual cost overruns and for changes in scope of work.".

(o) ANNUAL REPORT ON STATIONING FORCES OVERSEAS.—(1) Section 113 of title 10, United States Code (as amended by section 1214 of Public Law 100-180), is amended by adding at the end the following new subsection:

"(k)(1) Not later than April 8 of each year, the Secretary of Defense shall submit to the Committees on Armed Services and Committees on Appropriations of the Senate and House of Representatives a report on the cost of stationing United States forces outside of the United States. Each such report shall include a detailed statement of the following:

"(A) Costs incurred in the United States and costs incurred outside the United States in connection with the stationing of United States forces outside the United States.

"(B) The costs incurred outside the United States in connection with operating, maintaining, and supporting United States forces outside the United States, including all direct and indirect expenditures of United States funds in connection with such stationing.

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"(C) The effect of such expenditures outside the United States on the balance of payments of the United States.

"(2) Each report under this subsection shall be prepared in consultation with the Secretary of Commerce.

"(3) In this subsection, the term 'United States', when used in a geographic sense, includes the territories and possessions of the United States.".

(2) Section 8042 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202 (101 Stat. 1329-69)), is repealed.

10 USC 113 note.

(p) GENERAL REPEALS.—The following provisions of law are repealed:

(1) Sections 705, 707, 723, 728, and 735 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212; 97 Stat. 1437 et seq.).

10 USC 114 note.

(2) Section 8078 of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473 (98 Stat. 1938)).

10 USC 2304 note.

(3) Sections 8005 and 8006 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1185)).

10 USC 114 note.

(4) Section 813 of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485; 92 Stat. 1624).

10 USC 2304 note.

SEC. 2. CODIFICATION OF LAWS RELATING TO CONTRACTING FOR PERFORMANCE OF CIVILIAN FUNCTIONS.

(a) CONSOLIDATION AND CODIFICATION.—(1) Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 145 the following new chapter:

"CHAPTER 146—CONTRACTING FOR PERFORMANCE OF CIVILIAN COMMERCIAL OR INDUSTRIAL TYPE FUNCTIONS

"Sec.

"2461. Commercial or industrial type functions: required studies and reports before conversion to contractor performance.
"2462. Contracting for certain supplies and services required when cost is lower.
"2463. Reports on savings or costs from increased use of DOD civilian personnel.

"2464. Core logistics functions.
"2465. Prohibition on contracts for performance of firefighting or security-guard functions.

"§ 2461. Commercial or industrial type functions: required studies and reports before conversion to contractor performance

10 USC 2461.

"(a) REQUIRED NOTICE TO CONGRESS.—A commercial or industrial type function of the Department of Defense that on October 1, 1980, was being performed by Department of Defense civilian employees may not be converted to performance by a private contractor unless the Secretary of Defense provides to Congress in a timely manner—

"(1) notification of any decision to study such function for possible performance by a private contractor;

"(2) a detailed summary of a comparison of the cost of performance of such function by Department of Defense civilian employees and by private contractor which demonstrates that the performance of such function by a private contractor will result in a cost savings to the Government over the life of the contract and a certification that the entire cost comparison is available;

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"(3) a certification that the Government calculation for the cost of performance of such function by Department of Defense civilian employees is based on an estimate of the most efficient and cost effective organization for performance of such function by Department of Defense civilian employees; and

"(4) a report, to be submitted with the certification required by paragraph (3), showing—

"(A) the potential economic effect on employees affected, and the potential economic effect on the local community and Federal Government if more than 75 employees are involved, of contracting for performance of such function;

"(B) the effect of contracting for performance of such function on the military mission of such function; and

"(C) the amount of the bid accepted for the performance of such function by the private contractor whose bid is accepted and the cost of performance of such function by Department of Defense civilian employees, together with costs and expenditures which the Government will incur because of the contract.

"(b) CONGRESSIONAL NOTIFICATION OF DECISION TO CONVERT.—If, after completion of the studies required for completion of the certification and report required by paragraphs (3) and (4) of subsection (a), a decision is made to convert the function to contractor performance, the Secretary of Defense shall notify Congress of such decision.

"(c) ANNUAL REPORTS.—Not later than February 1 of each fiscal year, the Secretary of Defense shall submit to Congress a written report describing the extent to which commercial and industrial type functions were performed by Department of Defense contractors during the preceding fiscal year. The Secretary shall include in each such report an estimate of the percentage of commercial and industrial type functions of the Department of Defense that will be performed by Department of Defense civilian employees, and the percentage of such functions that will be performed by private contractors, during the fiscal year during which the report is submitted.

"(d) WAIVER FOR SMALL FUNCTIONS.—Subsections (a) through (c) shall not apply to a commercial or industrial type function of the Department of Defense that is being performed by 45 or fewer Department of Defense civilian employees.

"(e) ADDITIONAL LIMITATIONS.—(1) A commercial or industrial type function of the Department of Defense that on October 1, 1980, was being performed by Department of Defense civilian employees may not be converted to performance by a private contractor to circumvent a civilian personnel ceiling.

"(2) In no case may a commercial or industrial type function being performed by Department of Defense personnel be modified, reorga-

nized, divided, or in any way changed for the purpose of exempting from the requirements of subsection (a) the conversion of all or any part of such function to performance by a private contractor.

"(f) INAPPLICABILITY DURING WAR OR EMERGENCY.—The provisions of this section shall not apply during war or during a period of national emergency declared by the President or Congress.

102 STAT. 853

10 USC 2462.

"§ 2462. Contracting for certain supplies and services required when cost is lower

"(a) IN GENERAL.—Except as otherwise provided by law, the Secretary of Defense shall procure each supply or service necessary for or beneficial to the accomplishment of the authorized functions of the Department of Defense (other than functions which the Secretary of Defense determines must be performed by military or Government personnel) from a source in the private sector if such a source can provide such supply or service to the Department at a cost that is lower (after including any cost differential required by law, Executive order, or regulation) than the cost at which the Department can provide the same supply or service.

"(b) REALISTIC AND FAIR COST COMPARISONS.—For the purpose of determining whether to contract with a source in the private sector for the performance of a Department of Defense function on the basis of a comparison of the costs of procuring supplies or services from such a source with the costs of providing the same supplies or services by the Department of Defense, the Secretary of Defense shall ensure that all costs considered (including the costs of quality assurance, technical monitoring of the performance of such function, liability insurance, employee retirement and disability benefits, and all other overhead costs) are realistic and fair.

10 USC 2463.

"§ 2463. Reports on savings or costs from increased use of DOD civilian personnel

Records.

"(a) IN GENERAL.—Whenever during a fiscal year to which this section applies the performance of a commercial or industrial type activity of the Department of Defense that is being performed by 50 or more employees of a private contractor is changed to performance by civilian employees of the Department of Defense, the Secretary of Defense shall maintain data in which a comparison is made of the estimated costs of (1) continued performance of such activity by private contractor employees, and (2) performance of such activity by civilian employees of the Department of Defense.

"(b) SEMIANNUAL REPORT ON COSTS AND SAVINGS.—As soon as practicable after the end of the first six months, and after the end of the second six months, of a fiscal year to which this section applies, the Secretary of Defense shall submit to the Committees on Armed Services and the Committee on Appropriations of the Senate and House of Representatives a report showing the estimated savings or loss to the United States, during the preceding six-month period, that is reflected in the data maintained under subsection (a).

"(c) APPLICABILITY OF SECTION.—This section applies only with respect to a fiscal year during which there is no statutory limit (commonly known as an 'end strength') on the number of civilian employees that may be employed by the Department of Defense as of the last day of that fiscal year.

10 USC 2464.

"§ 2464. Core logistics functions

"(a) NECESSITY FOR CORE LOGISTICS CAPABILITY.—(1) It is essential for the national defense that Department of Defense activities maintain a logistics capability (including personnel, equipment, and facilities) to ensure a ready and controlled source of technical competence and resources necessary to ensure effective and timely response to a mobilization, national defense contingency situations, and other emergency requirements.

"(2) The Secretary of Defense shall identify those logistics activities that are necessary to maintain the logistics capability described in paragraph (1). 102 STAT. 854

"(b) LIMITATION ON CONTRACTING.—(1) Except as provided in paragraph (2), performance of a logistics activity identified by the Secretary under subsection (a)(2), and performance of a function of the Department of Defense described in section 1231(b) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 731), may not be contracted for performance by non-Government personnel under the procedures and requirements of Office of Management and Budget Circular A-76 or any successor administrative regulation or policy (hereinafter in this section referred to as OMB Circular A-76).

"(2) The Secretary of Defense may waive paragraph (1) in the case of any such logistics activity or function and provide that performance of such activity or function shall be considered for conversion to contractor performance in accordance with OMB Circular A-76. Any such waiver shall be made under regulations prescribed by the Secretary and shall be based on a determination by the Secretary that Government performance of the activity or function is no longer required for national defense reasons. Such regulations shall include criteria for determining whether Government performance of any such activity or function is no longer required for national defense reasons.

"(3) A waiver under paragraph (2) may not take effect until— Effective date.

"(A) the Secretary submits a report on the waiver to the Committees on Armed Services and the Committee on Appropriations of the Senate and House of Representatives; and Reports.

"(B) a period of 20 days of continuous session of Congress or 40 calendar days has passed after the receipt of the report by those committees.

"(4) For purposes of paragraph (3)(B), the continuity of a session of Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 20-day period.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are amended by inserting after the item relating to chapter 145 the following new item:

"146. Contracting for Performance of Civilian Commercial or Industrial Type Functions ..... 2461".

(b) TRANSFER OF SECTION.—(1) Section 2693 of title 10, United States Code, is transferred to the end of chapter 146 of such title (as added by subsection (a)) and is redesignated as section 2465.

(2) The table of sections at the beginning of chapter 159 of such title is amended by striking out the item relating to section 2693.

(c) CONFORMING REPEALS.—The following provisions of laws are repealed:

(1) Section 502 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2304 note).

(2) Section 307 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2304 note).

(3) Sections 1223 and 1224 of the Department of Defense Authorization Act, 1987 (10 U.S.C. 2304 note). 102 STAT. 855

SEC. 3. CODIFICATION OF DEFENSE-RELATED BUY AMERICAN LAWS.

(a) CONSOLIDATION AND CODIFICATION.—(1) Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 147 the following new chapter:

"CHAPTER 148—BUY AMERICAN REQUIREMENTS

"Sec.
"2501. Limitation on use of funds: procurement of goods which are other than American goods.
"2502. Miscellaneous procurement limitations.

10 USC 2501.

"§ 2501. Limitation on use of funds: procurement of goods which are other than American goods

"(a) Funds appropriated to the Department of Defense may not be obligated under a contract for procurement of goods which are other than American goods (as defined in subsection (c)) unless adequate consideration is given to the following:

"(1) The bids or proposals of firms located in labor surplus areas in the United States (as designated by the Department of Labor) which have offered to furnish American goods.

"(2) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

"(3) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

"(4) The United States balance of payments.

"(5) The cost of shipping goods which are other than American goods.

"(6) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

"(b) Consideration of the matters referred to in paragraphs (1) through (6) of subsection (a) shall be given under regulations of the Secretary of Defense and subject to the determinations and exceptions contained in title III of the Act of March 3, 1933 (41 U.S.C. 10a, 10b), popularly known as the 'Buy American Act'.

"(c) In this section, the term 'goods which are other than American goods' means—

"(1) an end product that is not mined, produced, or manufactured in the United States; or

"(2) an end product that is manufactured in the United States but which includes components mined, produced, or manufactured outside the United States the aggregate cost of which exceeds the aggregate cost of the components of such end product that are mined, produced, or manufactured in the United States.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are amended by inserting after the item relating to chapter 147 the following new item:

"148. Buy American Requirements ..... 2501".

(b) TRANSFER OF SECTION.—(1) Section 2400 of such title is transferred to the end of chapter 148 of such title (as added by subsection (a)), redesignated as section 2502, and amended in the second sentence of subsection (a) by striking out "this section" and inserting in lieu thereof "this subsection".

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2400.

102 STAT. 856

(c) CONFORMING REPEAL.—Section 707 of the Department of Defense Appropriation Authorization Act, 1975 (Public Law 93-365; 10 U.S.C. 2301 note), is repealed.

10 USC 101 note.

SEC. 4. LEGISLATIVE CONSTRUCTION.

(a) REFERENCES TO REPLACED LAWS.—A reference to a law replaced by the provisions of title 10, United States Code, enacted by this Act (including a reference in a regulation, order, or other law) shall be treated as referring to the corresponding provision enacted by this Act.

(b) SAVINGS PROVISION FOR REGULATIONS.—A regulation, rule, or order in effect under a law replaced by the provisions of title 10, United States Code, enacted by this Act shall continue in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(c) GENERAL SAVINGS PROVISION.—An action taken or an offense committed under a law replaced by the provisions of title 10, United States Code, enacted by this Act shall be treated as having been

taken or committed under the corresponding provision enacted by this Act.

Approved July 19, 1988.

LEGISLATIVE HISTORY—H.R. 4229:

HOUSE REPORTS: No. 100-696 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
July 6, considered and passed Senate.

Public Law 100-453
100th Congress

An Act

To authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Sept. 29, 1988
[H.R. 4387]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1989".

Intelligence Authorization Act, Fiscal Year 1989.

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1989 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

(b) None of the funds authorized to be appropriated by this Act may be used to procure more than three Guardrail RC-12K aircraft and sensor suites until the Department of the Army has submitted to the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives and to the Committee on Armed Services of the Senate a report detailing the long-range plans and budgetary commitments to meet the future requirements for tactical airborne reconnaissance in support of the United States Army. The report should include, but not be limited to, the contribution of remotely piloted vehicles and other reconnaissance assets.

Reports.

(c) Of the funds authorized to be appropriated in this Act for the Defense Intelligence Agency, the Secretary of Defense may transfer not to exceed $15,100,000 to appropriations for the foreign counterintelligence activities of the Federal Bureau of Investigation.

(d) The expiration date provided for in section 803(b) of the Intelligence Authorization Act for Fiscal Year 1986 (Public Law 99-169) shall be extended until December 31, 1989.

Termination date.
5 USC 9101 note.

102 STAT. 1905

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. (a) The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1989, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany H.R. 4387 of the One Hundredth Congress.

(b) The Schedule of Authorizations described in subsection (a) shall be made available to the Committee on Appropriations of the Senate and of the House of Representatives and to the President.

President of U.S.

The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1989 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

SEC. 104. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States may be obligated and expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support miltiary or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorizations referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to any provision of law specifically providing such funds, materiel, or assistance.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1989 the sum of $23,745,000.

AUTHORIZATION OF PERSONNEL END STRENGTH

Effective date.

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and forty-four full-time personnel as of September 30, 1989. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel

102 STAT. 1906

detailed from other elements of the United States Government.

(b) During fiscal year 1989, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

Government organization and employees.
Armed Forces.

(c) During fiscal year 1989, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the

performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1989, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1989 the sum of $144,500,000.

COMPARABILITY OF CERTAIN SPOUSE PROVISIONS WITH CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM

SEC. 302. (a) Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end thereof the following new section:

"SURVIVOR ANNUITIES FOR PREVIOUS SPOUSES AND SECOND CHANCE TO ELECT SURVIVOR ANNUITY FOR CERTAIN SPOUSES

"SEC. 226. (a) The Director shall prescribe regulations under which any previous spouse (including former spouses who are also previous spouses), divorced after the effective date of this section from a participant, former participant, or annuitant whose retirement or disability or FECA (chapter 81 of title 5, United States Code) annuity commences after the effective date of this section, shall be eligible for a survivor annuity to the same extent, and, to the greatest extent practicable, under the same conditions (including reductions to be made in the annuity of the participant) applicable to spouses of participants in the Civil Service Retirement and Disability System (CSRS) married for at least nine months with service creditable under section 8332 of title 5, United States Code. Regulations.

"(b) The Director shall prescribe regulations under which participants, retired participants, and former participants who have separated from service with a deferred annuity may make an election within two years after the effective date of this section (or, if later, at the time of retirement) to receive a reduced annuity, pay a deposit, and provide a survivor annuity for any spouse for whom survivor benefits were not elected at the time of retirement, or (if the marriage occurred after retirement) were not elected in a timely manner, and for any previous spouse (including former spouses who are also previous spouses) who is not eligible for a survivor annuity under subsection (a) of this section, under, to the greatest extent practicable, the same terms and conditions as those prescribed for participants in the Civil Service Retirement and Disability System (CSRS) by the Civil Service Retirement Spouse Equity Act of 1984. 102 STAT. 1907

"(c) As used in this section, the term 'previous spouse' means a former wife or husband who was married for at least nine months to a participant or former participant who had at least eighteen months of service which are creditable under sections 251, 252, and 253 of this Act.

"(d) This section shall take effect on the date of enactment of the Intelligence Authorization Act, Fiscal Year 1989.". Effective date.

(b)(1) Section 224 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(A) in subsection (a)(2), by inserting "an amount equal to any survivor annuity payments made to the former spouse under section 223 and also by" after "shall be reduced by"; and

(B) in subsection (b), by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

Effective date. 50 USC 403 note.

(2) The amendments made by paragraph (1) shall take effect as of October 1, 1986.

(c)(1) Section 225(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "and any former spouse divorced after November 15, 1982, from a participant or former participant who retired before November 15, 1982," after "1982".

Effective date. 50 USC 403 note.

(2) The amendment made by paragraph (1) shall take effect as of December 2, 1987.

(d)(1) The third sentence of section 221(n) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by striking out "one year" and inserting in lieu thereof "nine months after the date of remarriage".

(2) Section 221 of title II of such Act is amended by adding at the end thereof the following new subsection:

Effective date.

"(p) The election of a survivor annuity and the reduction of an annuity under subsection (f)(2) or (n) of this section shall take effect on the first day of the first month beginning nine months after the date of marriage. For the purposes of this subsection, the nine-month period shall be deemed to be satisfied in any case in which—

"(1) the annuitant dies within such period;

"(2) the surviving spouse of the annuitant had been previously married to the annuitant and subsequently divorced; and

"(3) the aggregate time married is at least nine months.".

50 USC 403 note.

(3) The amendment made by this subsection shall apply to marriages which occur on or after May 7, 1985.

50 USC 403 note.

(e) Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974) provided pursuant to the amendments made by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

TITLE IV—GENERAL PROVISIONS

RESTRICTION OF CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 401. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 402. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

EQUAL EMPLOYMENT OPPORTUNITY PLAN

Reports. 50 USC 403 note.

SEC. 403. Ninety days after enactment of this Act, the Director of Central Intelligence and the Secretary of Defense shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report setting forth an analysis of each equal employment opportunity group's representation in the Central Intelligence Agency and the National Security Agency respectively and proposing a plan for rectifying any underrepresentation of any such equal employment opportunity group by September 30, 1991.

(b) The Director of Central Intelligence and the Secretary of Defense shall each submit interim reports on February 1, 1989, 1990,

and 1991 concerning the Central Intelligence Agency and the National Security Agency respectively detailing the efforts made, and the progress realized, by each such agency in achieving the objectives of each such plan, including, but not limited to, the number of applications from, and the hiring, promotion, and training of, members of each equal employment opportunity group.

(c) For purposes of this section, the term "equal employment opportunity group" means—

(A) white women,
(B) black men,
(C) black women,
(D) Hispanic men,
(E) Hispanic women,
(F) Asian American and Pacific Islander men,
(G) Asian American and Pacific Islander women,
(H) Native American and Alaskan Native men, or
(I) Native American and Alaskan Native women.

DISCLOSURE OF INFORMATION CONCERNING AMERICAN PERSONNEL LISTED AS PRISONER, MISSING, OR UNACCOUNTED FOR IN SOUTHEAST ASIA

SEC. 404. (a) This section is enacted to ensure that current disclosure policy is incorporated into law. 50 USC 401 note.

(b) Except as provided in subsection (c), the head of each department or agency—

(1) with respect to which funds are authorized under this Act, and

102 STAT. 1909

(2) which holds or receives live sighting reports of any United States citizen reported missing in action, prisoner of war, or unaccounted for from the Vietnam Conflict, Vietnam.

shall make available to the next-of-kin of that United States citizen all reports, or portions thereof, held by that department or agency which have been correlated or possibly correlated to that citizen. Records.

(c) Subsection (b) does not apply with respect to—

(1) information that would reveal or compromise sources and methods of intelligence collection; or

(2) specific information that previously has been made available to the next-of-kin.

(d) The head of each department or agency covered by subsection (a) shall make information available under this section in a timely manner.

TITLE V—CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

ONE-TIME PERSONNEL AUTHORITY

SEC. 501. (a) Whenever the Director of Central Intelligence finds during fiscal year 1989 that a former employee of the Central Intelligence Agency has unfairly had his career with the Agency adversely affected as a result of allegations concerning the loyalty to the United States of such former employee, the Director may grant such former employee such monetary or other relief (including reinstatement and promotion) as the Director considers appropriate in the interest of fairness.

(b) Any action of the Director under this section is not reviewable in any other forum or in any court.

(c) The authority of the Director to make payments under subsection (a) is effective only to the extent that appropriated funds are available for that purpose.

(d) The Director shall report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives any use of the authority granted by this section in advance of such use. Reports.

FERS-CIARDS SPECIAL ELECTION AUTHORITY

50 USC 403 note.

SEC. 502. (a) Subsection (d) of section 301 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, is redesignated as subsection (e).

(b) A new subsection (d) is added after subsection (c) as follows:

"(d) An employee who has been designated as a participant in the Central Intelligence Agency Retirement System after December 31, 1987, pursuant to section 203 of this Act, may elect to become subject to chapter 84 of title 5, United States Code. An election under this paragraph—

"(1) shall not be effective unless it is made during the six-month period after the enactment of this section, or during the six-month period beginning on the date on which the employee is so designated, whichever comes later;

Effective date.

"(2) shall take effect beginning with the first pay period beginning after the date of the election; and

"(3) shall be irrevocable.".

AUTHORITY TO COMPENSATE RETIRED MILITARY PERSONNEL SERVING ON DCI ADVISORY COMMITTEES

Uniformed services.

SEC. 503. Subsection (a) of section 303 of the National Security Act of 1947 (50 U.S.C. 405) is amended by adding at the beginning of the last sentence "Retired members of the uniformed services employed by the Director of Central Intelligence who hold no other office or position under the United States for which they receive compensation,"; and by changing the word immediately thereafter from "Other" to "other".

REPORTS CONCERNING INSPECTOR GENERAL ACTIVITIES

SEC. 504. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding after section 16 the following new section:

"REPORTS OF INSPECTOR GENERAL ACTIVITIES

50 USC 403q.

"SEC. 17. The Director of Central Intelligence shall furnish to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives the following reports relating to the activities of the Inspector General at the Central Intelligence Agency.

"(a) A report made at the time any Inspector General is selected by the Director of Central Intelligence, specifying the name of the person selected, and certifying that such selection was made without regard to political affiliation. Such report shall also include a certification that the person selected meets Central Intelligence Agency security requirements and has had prior senior experience in the foreign intelligence field. It should also describe the background of such person as it relates to his or her experience in accounting, law, financial analysis, management analysis, public administration, or other field directly relevant to the performance of functions assigned the Inspector General.

"(b) A report made at the time any Inspector General is removed by the Director of Central Intelligence, specifying the basis for such removal.

"(c) Semiannual reports, to be furnished not later than June 30 and December 31 of each year, summarizing the activities of the Office of Inspector General for the preceding six-month period. Such reports shall include: (i) a certification that such activities have been carried out in accordance with accepted Federal standards for inspections, investigations, and audits; (ii) a certification that the Inspector General has had full and direct access to all information relevent to his activities; (iii) a description of any violation of law or willful violation of regulations, or any evidence of serious fraud, waste and abuse, identified during the reporting period; and (iv) the status of corrective actions taken during the reporting period in response to Inspector General recommendations.

"(d) A report of any decision made by the Director of Central Intelligence to prohibit the Inspector General from initiating, carrying out, or completing any audit, inspection, or investigation within the Central Intelligence Agency, to be made within seven days of such decision.

"(e) A report of any other decision made by the Director of Central Intelligence which would substantially affect the ability of the Inspector General to carry out his duties and responsibilities. Such report shall include the position of the Inspector General with respect to such decision, and be transmitted within seven days to the committees.". 102 STAT. 1911

TITLE VI—FBI ENHANCED COUNTERINTELLIGENCE AUTHORITIES

DEMONSTRATION PROJECT ON MOBILITY AND RETENTION FOR THE NEW YORK FIELD DIVISION

SEC. 601. (a) Notwithstanding any other provision of law, the Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall conduct a demonstration project to ascertain the effects on the recruitment and retention of personnel, and on field operations in the New York Field Division of the Federal Bureau of Investigation of providing— Contracts.

(1) lump-sum payments to personnel upon directed assignment to the New York Field Division from another geographical location who enter into an agreement to complete a specified minimum period of service, not to exceed three years, in the New York Field Division, except that no lump-sum payment under this paragraph may exceed $20,000, and no employee shall be eligible to receive more than one lump-sum payment under this paragraph in connection with each such assignment; and

(2) periodic payments to New York Field Division employees who are subject by policy and practice to directed geographical transfer or reassignment, except that the amounts paid under this paragraph to an employee for any period may not be less than 20 per centum nor greater than 25 per centum of the basic pay paid or payable to such employee for service performed during such period.

Any lump-sum payment under paragraph (1) and any periodic payment under paragraph (2) shall be in addition to basic pay. Any authority to make payments under this section shall be effective only to the extent of available appropriations.

(b) Such demonstration project shall commence not later than ninety days after the date of enactment of this Act and shall terminate five years after such date, unless extended by law. Effective date. Termination date.

(c) The Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall jointly provide to the President and the Congress annual interim reports and, at the conclusion of the five year period, a final evaluation concerning the results of the demonstration project. Reports.

TITLE VII—DEPARTMENT OF DEFENSE

INTELLIGENCE PROVISIONS

SEC. 701. (a) Section 421 of title 10, United States Code, is amended to read as follows:

"§ 421. Funds for foreign cryptologic support

"(a) The Secretary of Defense may use appropriated funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support. Communications and telecommunications.

102 STAT. 1912

"(b) The Secretary of Defense may use funds other than appropriated funds to pay for the expenses of arrangements with foreign countries for cryptologic support without regard for the provisions of law relating to the expenditure of United States Government funds, except that—

"(1) no such funds may be expended, in whole or in part, by or for the benefit of the Department of Defense for a purpose for which Congress had previously denied funds; and

"(2) proceeds from the sale of cryptologic items may be used only to purchase replacement items similar to the items that are sold; and

"(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

Reports.

"(c) Any funds expended under the authority of subsection (a) shall be reported to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House pursuant to the provisions of title V of the National Security Act of 1947, as amended, and funds expended under the authority of subsection (b) shall be reported pursuant to procedures jointly agreed upon by such committees and the Secretary of Defense.".

(b) The reference to section 421 in the sections at the beginning of chapter 21 of such title is amended to read "Funds for Foreign Cryptologic Support.".

AUTHORITY TO ESTABLISH POSITION OF ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE

SEC. 702. Paragraph (3) of section 136(b) of title 10, United States Code, is amended to read as follows:

"(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Deprtment of Defense.

"(B) Notwithstanding subparagraph (A), one of the Assistant Secretaries established by the Secretary of Defense may be an Assistant Secretary of Defense for Intelligence, who shall have as his principal duty the overall supervision of intelligence affairs of the Department of Defense.

"(C) If the Secretary of Defense establishes an Assistant Secretary of Defense for Intelligence, the Assistant Secretary provided for under subparagraph (A) shall be the Assistant Secretary of Defense for Command, Control, and Communications and shall have as his principal duty the overall supervision of command, control, and communications affairs of the Department of Defense.".

REQUIREMENTS TO DISCLOSE DEFENSE INTELLIGENCE AGENCY ORGANIZATIONAL AND PERSONNEL INFORMATION

SEC. 703. (a) Section 1607 of title 10, United States Code (as added by section 603 of Public Law 100-178), is transferred to the end of chapter 21, redesignated as section 424, and amended to read as follows:

102 STAT. 1913

"§ 424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency

"(a) Except as required by the President or as provided in subsection (b), the Secretary of Defense may not be required to disclose information with respect to—

"(1) the organization or any function of the Defense Intelligence Agency; or

"(2) the number of persons employed by or assigned or detailed to such Agency or the name, official title, occupational series, grade, or salary of any such person.

"(b) This section does not apply—

"(1) with respect to the provision of information to Congress; or

"(2) with respect to information required to be disclosed by section 552 or 552a of title 5.".

(b) The table of sections at the beginning of chapter 21 of such title is amended by adding at the end the following new item:

"424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency.".

DEFENSE ATTACHÉ DEATH GRATUITY

SEC. 704. (a) During fiscal year 1989, the Secretary of Defense may pay a death gratuity identical to that payable under section 1489(b) of title 10, United States Code, to the surviving dependents of a member of the Armed Forces who, while serving on active duty assigned to a Defense attaché office outside the United States, died as a result of hostile or terrorist activities. Armed Forces. Terrorism.

(b) The death gratuity referred to in subsection (a) may be paid with respect to an individual who died on or after June 15, 1988.

(c) The Secretary of Defense shall submit to Congress no later than March 1, 1989, a report concerning the advisability of permanent law permitting the payment of death gratuities to the survivors of any member of the armed services who, while on active duty assigned to a Defense attaché office outside the United States, dies as a result of hostile or terrorist activities. Reports.

Approved September 29, 1988.

LEGISLATIVE HISTORY—H.R. 4387 (S. 2366):

HOUSE REPORTS: No. 100-591, Pt. 1 (Permanent Select Comm. on Intelligence), Pt. 2 (Comm. on Armed Services) and No. 100-879 (Comm. of Conference).

SENATE REPORTS: No. 100-334 accompanying S. 2366 (Select Comm. on Intelligence).

CONGRESSIONAL RECORD, Vol. 134 (1988):
May 26, considered and passed House.
Aug. 5, considered and passed Senate, amended, in lieu of S. 2366.
Sept. 14, House agreed to conference report.
Sept. 15, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Sept. 29, Presidential statement.

Public Law 100-456
100th Congress

102 STAT. 1918

An Act

To authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Sept. 29, 1988
[H.R. 4481]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act, Fiscal Year 1989". National Defense Authorization Act, Fiscal Year 1989.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS

This Act is organized into two divisions as follows:

(1) Division A—Department of Defense and other National Defense Authorizations.

(2) Division B—Military Construction Authorizations.

SEC. 3. TABLE OF CONTENTS

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Sec. 1. Short title.
Sec. 2. Organization of Act into divisions.
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SEC. 4. STATUTORY CONSTRUCTION

(a) ORDER OF ENACTMENT WITH APPROPRIATIONS ACT.—In applying any rule of statutory construction, the provisions of this Act shall be deemed to have been enacted before the provisions of the Department of Defense Appropriations Act, 1989 (regardless of the actual dates of enactment concerned).

(b) TERMINATION OF REFERENCED AUTHORIZATION PROVISION.—If this Act is enacted after the Department of Defense Appropriations Act, 1989—

(1) section 10001 of that Act shall cease to be effective upon the enactment of this Act; and

(2) subject to subsection (a), this Act shall be deemed for all purposes to have been enacted on the date of the enactment of such Act.

DIVISION A—DEPARTMENT OF DEFENSE AND OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Army as follows:

(1) For aircraft, $2,883,700,000.
(2) For missiles, $2,605,200,000.
(3) For weapons and tracked combat vehicles, $2,915,100,000.
(4) For ammunition, $2,064,036,000.
(5) For other procurement, $4,580,346,000, of which—
  (A) $872,671,000 is for tactical and support vehicles;
  (B) $2,811,727,000 is for communications and electronics equipment; and
  (C) $895,948,000 is for other support equipment.

SEC. 102. NAVY AND MARINE CORPS

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement of aircraft for the Navy in the amount of $9,259,253,000.

(b) WEAPONS.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement of weapons (including missiles and torpedoes) for the Navy in the amount of $5,972,181,000. Amounts authorized under the preceding sentence are available as follows:

(1) For ballistic missile programs, $1,872,538,000.
(2) For other missile programs, $3,203,737,000.
(3) For torpedo programs, $700,054,000 as follows:
  For the MK-48 torpedo program, $431,014,000.
  For the MK-50 torpedo program, $198,547,000.
  For the Vertical Launched ASROC program, $17,552,000.
  For the modification of torpedoes and related equipment, $3,289,000.
  For the torpedo support equipment program, $25,988,000.
  For the antisubmarine warfare range support program, $22,664,000.

102 STAT. 1927

(4) For other weapons, $108,440,000, of which—
  (A) $19,449,000 is for the MK-15 close-in weapon system; and
  (B) $54,557,000 is for the close-in weapon system modification program.
(5) For spares and repair parts, $87,412,000.

(c) SHIPBUILDING AND CONVERSION.—Funds are hereby authorized to be appropriated for fiscal year 1989 for shipbuilding and conversion for the Navy in the amount of $9,056,100,000. Amounts authorized under the preceding sentence are available as follows:

For the Trident submarine program, $1,368,100,000.
For the SSN-688 nuclear attack submarine program, $1,493,600,000.
For the SSN-21 nuclear attack submarine program, $1,488,000,000.
For the aircraft carrier service life extension program (SLEP), $135,400,000.
For the DDG-51 guided missile destroyer program, $2,207,300,000.
For the LHD-1 amphibious assault ship program, $737,500,000.
For the MHC coastal minehunter program, $197,200,000.
For the TAO-187 fleet oiler program, $284,900,000.

For the AO (Jumbo) conversion program, $84,900,000.
For the TAGOS ocean surveillance ship program, $159,600,000.
For the AOE fast combat support ship program, $363,900,000.
For the landing craft, air cushion (LCAC) program, $192,600,000.
For outfitting and post delivery, $343,100,000.

(d) OTHER PROCUREMENT, NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1989 for other procurement for the Navy in the amount of $4,817,750,000. Amounts authorized under the preceding sentence are available as follows:

(1) For the ship support equipment program, $649,740,000.
(2) For the communications and electronics equipment program, $1,548,164,000.
(3) For aviation support equipment, $550,692,000.
(4) For the ordnance support equipment program, $1,135,671,000.
(5) For civil engineering support equipment, $109,061,000.
(6) For supply support equipment, $126,495,000.
(7) For personnel and command support equipment, $470,731,000.
(8) For spares and repair parts, $227,196,000.

(e) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Marine Corps in the amount of $1,297,265,000.

SEC. 103. AIR FORCE

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Air Force as follows:

(1) For aircraft, $16,125,024,000.
(2) For missiles, $7,716,533,000.
(3) For other procurement, $8,196,782,000, of which—
(A) $605,087,000 is for munitions and associated support equipment;
(B) $279,768,000 is for vehicular equipment;
(C) $1,893,245,000 is for electronics and telecommunications equipment; and
(D) $5,418,682,000 is for other base maintenance and support equipment.

102 STAT. 1928

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Defense Agencies in the amount of $1,205,100,000.

SEC. 105. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for fiscal year 1989 for the chemical demilitarization program under section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) in the amount of $179,500,000, of which—

(1) $44,300,000 is for procurement;
(2) $17,900,000 is for research, development, test, and evaluation; and
(3) $117,300,000 is for operation and maintenance.

SEC. 106. RESERVE COMPONENTS

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces as follows:

For the Army National Guard, $240,000,000.
For the Air National Guard, $216,500,000.
For the Army Reserve, $30,000,000.
For the Naval Reserve, $75,000,000.
For the Air Force Reserve, $232,000,000.
For the Marine Corps Reserve, $50,000,000.

SEC. 107. AUTHORIZED MULTIYEAR CONTRACTS

(a) ARMY.—Subject to subsections (d) and (e), the Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

(1) CH-47D helicopter modification.
(2) Multiple Launch Rocket System (MLRS).
(3) T-700 helicopter engine.
(4) AH-64 Apache helicopters.
(5) M1 Abrams tanks for 3,000 tanks.

(b) NAVY AND MARINE CORPS.—Subject to subsections (d) and (e), the Secretary of the Navy may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

(1) AV-8B aircraft.
(2) UHF Follow-On Satellite System.

(c) AIR FORCE.—Subject to subsections (d) and (e), the Secretary of the Air Force may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

(1) F-16 aircraft.
(2) Defense Meteorological Satellite Program (DMSP). 102 STAT. 1929

(d) CONDITIONS.—A multiyear contract authorized by this section may not be entered into unless each of the following conditions is satisfied:

(1) The Secretary of Defense certifies to Congress that the current five-year defense program fully funds the support costs associated with the multiyear program.

(2) The proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

(3) The proposed multiyear contract—

(A) achieves a 10 percent savings as compared to the cost of current negotiated contracts, adjusted for changes in quantity and for inflation; or

(B) achieves a 12 percent savings as compared to annual contracts if no recent contract experience exists.

(e) NEGOTIATED PRICED OPTIONS.—The Secretary of Defense may instruct the Secretary of the military department concerned to incorporate into a proposed multiyear contract under this section negotiated priced options for varying the quantities of end items to be procured over the period of the contract.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 111. ARMY PROGRAMS

(a) ADATS AIR DEFENSE WEAPON.—(1) The Secretary of the Army may obligate funds appropriated for fiscal year 1989 for procurement of the ADATS Air Defense Weapon system in the amount of $85,000,000 for production of five fire units and 60 missiles to be used specifically for production qualification testing and operational testing. Funds may be obligated for such purpose only after the Director of Operational Test and Evaluation of the Department of Defense certifies to the Committees on Armed Services of the Senate and House of Representatives that he has approved the plan for the qualification testing and operational testing for such system.

(2) The Secretary of the Army may obligate funds for procurement and advanced procurement for such system for any fiscal year after fiscal year 1989 only after—

(A) the operational tests for such system are completed;

(B) the Secretary of Defense certifies to the Committees on Armed Services of the Senate and House of Representatives that the system meets or exceeds the operational performance criteria of the Army;

(C) the Director of Operational Test and Evaluation of the Department of Defense provides to those Committees his evaluation of the performance of the system; and

(D) the Comptroller General of the United States provides to those Committees his evaluation of the performance of the system.

(b) MORTARS.—The Secretary of the Army may not obligate funds appropriated for fiscal year 1989 for procurement of 120-millimeter mortars or 4.2-inch mortars (or for procurement of ammunition for either such mortar) until the Secretary does each of the following:

(1) Submits to Congress a new master plan for Army mortars, including a description of the status of 4.2-inch mortars (and the ammunition for such mortars) and the status of any proposed upgrade of such mortar or ammunition.

(2) Certifies to Congress that the current Five-Year Defense Program provides for funding for the initiatives set forth in such master plan.

(3) Completes the analysis (referred to as an "Arsenal Act analysis") of the cost-effectiveness of using domestic sources (as provided under section 4532 of title 10, United States Code) for manufacture of 120-millimeter mortars that was specified in section 122(a)(2) of Public Law 99-661.

(c) 155-MILLIMETER BASE BURN ASSEMBLY UNITS.—(1) If the contractor for low-rate initial production of base burn assembly units for the 155-millimeter M864 artillery projectile certifies to the Secretary of the Army that the contractor is willing to finance the expenses of preparing facilities and equipment at (and otherwise "facilitizing") a Government-owned contractor-operated Army ammunition plant for production of such base burn assembly units, the Secretary shall contract with that contractor for production of not less than 96,000 of such units with funds appropriated for such program for each of fiscal years 1989 and 1990 (for a production rate of not less than 8,000 units per month under the program for those fiscal years).

(2) In carrying out the program for production of such base burn assembly units, the Secretary of the Army, through the use of competitive procedures, shall select a second source producer for such base burn assembly units during fiscal year 1989.

SEC. 112. NAVY PROGRAMS

(a) AH-1W GROUND SUPPORT EQUIPMENT.—Of the amount appropriated pursuant to section 102 for the Navy for procurement, $55,000,000 may be obligated only for the procurement of AH-1W ground support equipment.

(b) TRIDENT II MISSILE PROGRAM.—(1) Of the amounts appropriated pursuant to section 102 for the Navy for the procurement of missiles for fiscal year 1989, $1,865,609,000 may be obligated only for the Trident II missile program.

(2) In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1989, no reduction may be made in the amount of funds available for the Trident II missile program.

(c) DDG-51 DESTROYER PROGRAM COMPETITION.—Notwithstanding the proviso to the item relating to the DDG-51 destroyer program in the paragraph under the heading "SHIPBUILDING AND CONVERSION, NAVY" in title III of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202), the Secretary of the Navy may limit competition for the shipbuilding portion of the DDG-51 destroyer program for any fiscal year to the two shipyard contractors to which such competition was limited on December 21, 1987 (the day before the date of the enactment of Public Law 100-202), if the Secretary certifies to the Committees on Armed Services of the Senate and House of Representatives that the limitation of such competition to those contractors either—

(1) would likely result in a lower total cost to the United States for the fiscal year 1989 program than would result from including other shipyard contractors in the competition; or

(2) is necessary to meet the cost, schedule, or performance requirements of the Navy or such other requirements of the Navy as may be determined by the Secretary.

(d) USE OF PRIOR YEAR FUNDS FOR DDG-51 DESTROYER PROGRAM.—(1) There are hereby authorized to be transferred to the shipbuilding and conversion program for the Navy for fiscal year 1988, to the extent provided in appropriation Acts, amounts that were appropriated for the Department of Defense for fiscal year 1988 or any prior fiscal year that remain available for obligation and that are no longer required for the purpose for which originally appropriated. The total amount transferred pursuant to the authority of this section may not exceed $730,000,000. Amounts transferred pursuant to this section shall be used for the procurement of one DDG-51 class guided missile destroyer.

(2) The authority to transfer amounts under this subsection is in addition to any other authority to transfer amounts provided in this or any other Act.

(3) A transfer pursuant to the authority provided by this section shall not extend the period of availability for obligation of the amounts so transferred.

(e) MARINE CORPS TACTICAL RADIOS.—Amounts previously appropriated to the Navy for procurement of TSEC/KY-67 (Bancroft) radios and that are available for obligation may be obligated only for procurement of SINCGARS radios.

(f) 5-INCH SEMIACTIVE LASER-GUIDED PROJECTILE PROGRAM.—Of the funds appropriated or otherwise made available for other procurement for the Navy for fiscal year 1989, the Secretary of the Navy shall make available such funds as necessary for the 5-inch semiactive laser-guided projectile program in order to complete production qualification of 150 of such projectiles, with 50 such projectiles to be produced by each of the three established competitive sources.

SEC. 113. AIR FORCE PROGRAMS

(a) AIR NATIONAL GUARD USE OF CERTAIN AIRCRAFT.—The Secretary of the Air Force may authorize the Air National Guard to use the eight C-130 aircraft (and support equipment related to such aircraft) that are in long-term storage at Air Force plant #6, Marietta, Georgia. Of funds appropriated for the Air Force for fiscal year 1989 for modification of C-130 aircraft, $17,500,000 shall be available only to refurbish such aircraft for full operational use.

(b) AIR FORCE LAUNCH FACILITY.—Funds appropriated or otherwise made available to the Air Force for fiscal year 1989 may not be obligated or expended in connection with the launch facility at Vandenberg Air Force Base, California (designed for the launch of Titan IV expendable launch vehicles), identified as the SLC-7 Launch Facility.

SEC. 114. INTERIM INFANTRY ANTI-TANK WEAPON

(a) DETERMINATION OF INTERIM INFANTRY ANTI-TANK WEAPON.—The Secretary of the Army shall select an interim infantry anti-tank weapon from among the Milan II weapon, the Bofors Bill weapon, Dragon Generation II weapon, and the Marine Corps Dragon Generation III weapon. The selection shall be based on the Secretary's determination of which of such weapons is the most effective weapon on the basis of all of the operational testing and evaluation of those weapons conducted as of June 1, 1989. The Secretary shall manage the program for the weapon selected so that such weapon is ready to enter into low-rate initial production during fiscal year 1990.

102 STAT. 1932

(b) OT&E ASSESSMENT.—The Director of Operational Test and Evaluation of the Department of Defense shall conduct an independent assessment of the operational tests and evaluations referred to in subsection (a). The Director shall submit a report on such assessment to the Committees on Armed Services of the Senate and House of Representatives not later than June 1, 1989.

Reports.

SEC. 115. SOURCE SELECTION AUTHORITY FOR THE PALLETIZED LOADING SYSTEM

Section 259(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1068) is amended by striking out "The Under Secretary of Defense for Acquisition" at the beginning of the second sentence and inserting in lieu thereof "The Acquisition Executive for the Department of the Navy".

SEC. 116. BIGEYE BINARY CHEMICAL BOMB

(a) AUTHORIZED PROCUREMENT FOR TESTING.—(1) Except as provided in paragraph (2), funds appropriated or otherwise made available to the Department of Defense for fiscal years before fiscal year 1989 for procurement under the BIGEYE binary chemical bomb program may be obligated or expended in connection with such program only for procurement of production-configured bombs. Any bombs procured under the preceding sentence may be used only in conducting required follow-on operational testing scheduled to be performed during fiscal years 1989 and 1990.

(2) Any such funds not obligated for the purpose described in paragraph (1) may be used for the purpose of maintaining program continuity for the BIGEYE bomb program.

(3) None of the funds referred to in paragraphs (1) and (2) may be used for low-rate initial production.

(b) CONDITIONS FOR OBLIGATION OF FUNDS FOR PROCUREMENT.—Except as provided in subsection (f), funds appropriated or otherwise made available to the Department of Defense after the date of the enactment of this Act may not be obligated or expended for procurement of the BIGEYE binary chemical bomb, or for any component of such bomb or the assembly of such bomb, until the reports required by subsections (c) and (d) have been submitted in accordance with those subsections and only then if neither of those reports includes a certification that one or more of the production certification conditions has not been met.

Reports.

(c) CERTIFICATION BY DIRECTOR, OT&E.—Upon the completion of operational and developmental tests conducted in connection with the BIGEYE binary chemical bomb program, the Director of Operational Test and Evaluation of the Department of Defense shall submit to Congress a report certifying, with respect to each of the production certification conditions, whether or not, in the judgment of the Director, such condition has been met.

Reports.

(d) CERTIFICATION BY COMPTROLLER GENERAL.—Upon the submission of the report under subsection (c), the Comptroller General of the United States shall submit to Congress a report certifying, with respect to each of the production certification conditions, whether or not, in the judgment of the Comptroller General, such condition has been met.

(e) PRODUCTION CERTIFICATION CONDITIONS.—For purposes of this section, the term "production certification conditions" means, with respect to the operational and developmental tests of the BIGEYE bomb, each of the following:

102 STAT. 1933

(1) That the operational and developmental tests conducted in connection with such program after the date of the enactment of this Act were realistic and adequate.

(2) That the plan and objectives for those tests were clear, well defined, and properly quantifiable.

(3) That the design of those tests supports a valid statistical analysis of data.

(4) That the criteria for a no-test were adequately defined in the plan for those tests.

(5) That the performance of such bomb in those tests met or exceeded the standards established for the tests.

(6) That the BIGEYE bomb program is otherwise ready to proceed into full-scale production.

(f) FISCAL YEAR 1989 AUTHORIZED ACTIVITIES.—Of amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1989, $15,000,000 may be obligated or expended for procurement for the BIGEYE program without regard to the limitations contained elsewhere in this section, but only for the purposes of maintaining program continuity, maintaining the subcontractor base, and procuring piece parts and components. Such funds may not be obligated or expended for low-rate initial production or for final assembly.

SEC. 117. MANAGEMENT OF CERTAIN DEFENSE PROCUREMENT PROGRAMS

10 USC 2431 note.

(a) STRETCHOUT IMPACT STATEMENT.—The Secretary of Defense shall submit to Congress, at the same time the budget for any fiscal year is submitted to Congress under section 1105 of title 31, United States Code, a statement of what the effect would be during the fiscal year for which the budget is submitted of the stretchout of a major defense acquisition program if either of the following applies with respect to that program:

(1) The final year of procurement scheduled for the program at the time the statement is submitted is more than two years later than the final year of procurement for the program as specified in the most recent annual Selected Acquisition Report for that program.

(2) The proposed procurement quantity for that fiscal year is less than 90 percent of the procurement quantity proposed for the same fiscal year in the most recent annual Selected Acquisition Report for that program.

(b) CHANGES IN CERTAIN COSTS TO BE INCLUDED.—A statement under subsection (a) with respect to a major defense acquisition program shall contain an estimate of the projected increase in unit cost and the projected increase in total program cost for the system being procured under the program compared to the program specified in the most recent annual Selected Acquisition Report for that program.

(c) IDENTIFICATION OF STRETCHED OUT PROGRAMS.—The Secretary shall include in a statement under subsection (a) identification of all major acquisition programs for which the proposed procurement quantity for that fiscal year is less than 80 percent of the baseline production rate for that fiscal year, as defined by section 2432(c)(3)(C)(i) of title 10, United States Code, and an explanatory statement for the lower procurement rate for each program.

102 STAT. 1934

(d) LIMITATIONS.—(1) Subsection (a) shall apply only for major defense acquisition programs for which procurement is proposed at a rate of six or more units per year.

(2) Subsection (a) shall not apply if the total procurement quantity has been increased, compared to the program specified in the most recent annual Selection Acquisition Report for that program, and subsection (a)(2) does not apply.

(e) REPORT ON ESTABLISHING MAXIMUM PRODUCTION RATES.—Not later than March 15, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the feasibility and effect of establishing maximum production rates by December 1990 for certain major defense acquisition programs. The report shall identify and discuss ten programs, of which seven shall be programs for the procurement of conventional, tactical, or dual-capable systems.

(f) DEFINITION.—For purposes of this section, the term "major defense acquisition program" has the meaning given that term in section 2430 of title 10, United States Code.

SEC. 118. MODIFICATIONS IN CHEMICAL DEMILITARIZATION PROGRAM

(a) EXTENSION OF DEADLINE FOR COMPLETION OF PROGRAM.—Subsection (b) of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1512(b)) is amended— 50 USC 1521.

(1) by striking out "September 30, 1994" in paragraphs (1) and (3)(A) and inserting in lieu thereof "the stockpile elimination deadline";

(2) in paragraph (3)(B), by striking out "within 30 days" and all that follows in that paragraph and inserting in lieu thereof "not later than the earlier of (A) 30 days after the date on which the decision to defer is made, or (B) 30 days before the stockpile elimination deadline."; and

(3) by adding at the end the following new paragraphs:

"(4) If the Secretary determines at any time that there will be a delay in meeting the requirement in paragraph (1) for the completion of the destruction of chemical weapons by the stockpile elimination deadline, the Secretary shall immediately notify the Committees on Armed Services of the Senate and House of Representatives of that projected delay.

"(5) For purposes of this section, the term 'stockpile elimination deadline' means April 30, 1997.".

(b) REQUIREMENT FOR SUCCESSFUL COMPLETION OF OPERATIONAL VERIFICATION.—Such section is further amended by striking out subsection (k) and inserting in lieu thereof the following:

"(k) OPERATIONAL VERIFICATION.—(1) Until the Secretary of the Army successfully completes (through the prove-out work to be conducted at Johnston Atoll) operational verification of the technology to be used for the destruction of live chemical agents and munitions under this section, the Secretary may not conduct any activity for equipment prove out and systems test before live chemical agents are introduced at a facility (other than the Johnston Atoll facility) at which the destruction of chemical agent and munitions weapons is to take place under this section. The limitation in the preceding sentence shall not apply with respect to the Chemical Agent Munition Disposal System in Tooele, Utah.

Reports.

"(2) Upon the successful completion of the prove out of the equipment and facility at Johnston Atoll, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report certifying that the prove out is completed.

102 STAT. 1935

"(3) If the Secretary determines at any time that there will be a delay in meeting the deadline of December 31, 1990, scheduled by the Department of Defense for completion of the operational verification at Johnston Atoll referred to in paragraph (1), the Secretary shall immediately notify the Committees of that projected delay.".

SEC. 119. REPORT ON NAVY AIRCRAFT REQUIREMENTS

Not later than December 1, 1988, the Secretary of Defense shall submit to Congress a detailed report on the current and projected requirements of the Navy for aircraft. The Secretary shall include in such report the following information:

(1) The plans of the Department of Defense to alleviate existing shortfalls of Navy aircraft.

(2) The plans of the Department of Defense to maintain or reduce the current average age of Navy combat aircraft.

(3) The plans of the Department of Defense to modify Navy aircraft to make such aircraft effective against current and projected threats.

(4) The level of funding required to carry out the plans referred to in paragraphs (1), (2), and (3) during fiscal years 1990 through 1994.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND FUNDING FOR SPECIFIC PROGRAMS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces for research, development, test, and evaluation, in amounts as follows:

For the Army, $5,198,444,000.

For the Navy (including the Marine Corps), $9,383,162,000.

For the Air Force, $14,680,825,000.

For the Defense Agencies, $8,707,727,000, of which—

(1) $155,900,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(2) $123,400,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. FUNDING FOR ICBM MODERNIZATION PROGRAMS

(a) PROGRAM FUNDS.—Of the funds appropriated pursuant to section 201 for the Air Force, the amount of $890,000,000 shall be available for ICBM modernization programs.

(b) ALLOCATION.—Of the amounts specified in subsection (a)—

(1) $40,000,000 shall be available for continued development and flight testing of the MX missile;

(2) $250,000,000 shall be available for the small ICBM program; and

(3) $600,000,000 shall be available for the MX Rail-Garrison program.

102 STAT. 1936

(c) LIMITATION ON OBLIGATION.—Of the amount specified in subsection (b)(3), the amount obligated before February 15, 1989, may not exceed $250,000,000.

(d) PRESIDENTIAL REPORT.—During the period beginning on January 21, 1989, and ending on February 15, 1989, the President shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report on—

(1) anticipated obligations for the remainder of fiscal year 1989 for the small ICBM program, the MX Rail-Garrison program, and other ICBM modernization programs; and

(2) the purposes those obligations are intended to accomplish.

SEC. 203. DARPA NUCLEAR MONITORING PROGRAM

Of the amount appropriated pursuant to section 201 for Defense Agencies, $37,600,000 shall be available only to the Defense Advanced Research Projects Agency for the nuclear monitoring program.

SEC. 204. GRANT FOR SEMICONDUCTOR COOPERATIVE RESEARCH PROGRAM

Of the amount appropriated pursuant to section 201 for Defense Agencies, $100,000,000 shall be available only to make grants under section 272 of Public Law 100-180.

SEC. 205. AIRSHIP PROGRAM

Of the amounts appropriated pursuant to section 201, the Secretary of Defense may make available an amount not to exceed $25,000,000 for the Airship Program.

SEC. 206. EXTENDED AIR DEFENSE

Of the amount appropriated pursuant to section 201 for Defense Agencies, $25,000,000 may be obligated only upon approval of the Director of Defense Research and Engineering for the purpose of

research and development in connection with anti-tactical missile systems. If any such funds are made available to a firm in an allied country, those funds may not be obligated until the Secretary of Defense enters into a cooperative program with that country for that purpose.

SEC. 207. PRODUCT EVALUATION ACTIVITY

Of the amounts appropriated pursuant to section 201, $17,500,000 shall be available only for the product evaluation activity provided for under section 2369 of title 10, United States Code, as added by section 842 of this Act.

SEC. 208. CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM

Of the amounts appropriated pursuant to section 201, $6,800,000 shall be available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

SEC. 209. OPTOELECTRONICS MATERIALS CENTER

Of the amounts appropriated pursuant to section 201 for Defense
102 STAT. 1937 Agencies, $14,500,000 shall be available only for the establishment of an Optoelectronics Materials Center at a university in the United States and for the acquisition of associated facilities.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 211. TRIDENT II MISSILE PROGRAM

(a) TRIDENT II MISSILE.—Of the amount appropriated pursuant to section 201 for the Navy, $580,889,000 may be obligated only for the Trident II missile program.

(b) UNDISTRIBUTED REDUCTION.—In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1989, no reduction may be made in the amount of funds available for the Trident II missile program.

SEC. 212. BALANCED TECHNOLOGY INITIATIVE

(a) AMOUNTS AUTHORIZED.—Of the amounts appropriated pursuant to section 201—

(1) $263,000,000 may be obligated only for research and development in connection with those programs, projects, and activities initiated pursuant to section 222 of the Department of Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3845) or section 215 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 100 Stat. 1050); and

(2) $50,000,000 may be obligated only for research and development under the Balanced Technology Initiative and only for new and innovative programs, projects, and activities that have not been designated for funding under a provision of law referred to in clause (1).

(b) DETERMINATION OF SOURCE OF FUNDS.—The Director of Defense Research and Engineering shall determine the amount of the funds appropriated to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 that are to be allocated (as provided in subsection (a)) for the Balanced Technology Initiative. The Director shall make such determination on the merits of the programs, projects, and activities referred to in section 215(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 that are carried out by the Army, Navy, Air Force, and Defense Agencies, taking into consideration ongoing technology research and exploitation opportunities.

(c) PROHIBITION REGARDING UNDISTRIBUTED REDUCTIONS.—No portion of any undistributed reduction may be applied against the funds allocated under subsection (a) or against any funds made available for the Balanced Technology Initiative that are in addition to the funds specified in subsection (a).

(d) PROHIBITION ON USE OF FUNDS FOR SDI.—None of the funds allocated under subsection (a) may be used in connection with any program, project, or activity in support of the Strategic Defense Initiative.

(e) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report on the implementation of this section. The report shall include the following:

(1) The amount allocated under subsection (a) for each program, project, or activity and the identification of the source of such amount.

(2) Identification of other ongoing research and development projects not provided for under this section that should be included in the Balanced Technology Initiative in order to improve conventional defense capabilities.

(3) For each program, project, or activity for which funds have been allocated under subsection (a) or which is identified under paragraph (2), a five-year funding plan that is sufficient to maintain significant progress in research and development under such program, project, or activity, including a description of the major milestones for each such program, project, or activity and the projected dates for achieving those milestones.

SEC. 213. ADVANCED TACTICAL AIRCRAFT AND ADVANCED TACTICAL FIGHTER PROGRAMS

(a) ADVANCED TACTICAL AIRCRAFT, NAVY.—Of the amounts made available to the Department of Defense pursuant to section 201 for the Advanced Tactical Aircraft program of the Navy, not more than 50 percent of such amounts may be obligated or expended unless the Secretary of Defense certifies to Congress that the Navy has budgeted sufficient funds for fiscal years 1990 through 1994 to participate in the demonstration and validation program (including source selection) for the Advanced Tactical Fighter of the Air Force.

(b) ADVANCED TACTICAL FIGHTER, AIR FORCE.—Of the amounts appropriated pursuant to section 201, not more than $350,000,000 may be obligated or expended for the Advanced Tactical Fighter program of the Air Force unless the Secretary of Defense certifies to Congress that the Air Force has budgeted sufficient funds for fiscal years 1990 through 1994 to participate in the full scale development of the Advanced Tactical Aircraft of the Navy.

SEC. 214. AIR-TO-AIR MISSILE PROJECT OFFICE

(a) LIMITATION.—Subject to subsection (b), amounts appropriated pursuant to section 201—

(1) may not be obligated in excess of $20,000,000 for the Advanced Air-to-Air Missile (AAAM) program; and

(2) may not be obligated in excess of $10,000,000 for the Advanced Medium-Range Air-to-Air Missile (AMRAAM) program.

(b) JOINT PROGRAM OFFICE.—Subsection (a) shall cease to apply upon the establishment by the Secretary of the Navy and the Secretary of the Air Force of a joint program office, to operate under the guidance of the Office of the Secretary of Defense, for co-development of the Advanced Air-to-Air Missile and the product improved Advanced Medium-Range Air-to-Air Missile.

SEC. 215. TRAINING IN ADVANCED MANUFACTURING TECHNOLOGIES

(a) FUNDS FOR PURCHASE AND INSTALLATION OF EQUIPMENT.—Of the amounts appropriated pursuant to section 201, not more than

$15,000,000 may be obligated for the purchase of high technology manufacturing equipment and the installation of such equipment in a private, nonprofit center for advanced technologies for the purpose of training, in a production facility, machine tool operators in skills critical to the defense technology base to build, operate, and maintain such equipment.

102 STAT. 1939

(b) REQUIREMENTS.—Funds may not be obligated for the purpose described in subsection (a) until—

(1) the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, and the Secretary of Education enter into a memorandum of understanding concerning the participation of their respective departments in a project to demonstrate the training of machine technicians in a production facility;

(2) the Secretary of Defense approves the obligation of such funds for such purpose; and

Reports.

(3) a period of 60 days elapses after the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report that sets forth—

(A) a detailed explanation of proposed Federal expenditures,

(B) a description of the cost-sharing arrangements between the Government agencies concerned and the private sector, and

(C) a description of how the proposed program furthers the industrial and technological goals of the Department of Defense.

(c) CONFORMING AMENDMENT.—Section 219(b) of Public Law 100-180 is repealed.

101 Stat. 1054.

SEC. 216. PROHIBITION ON OBLIGATION OF FUNDS FOR CANCELLED ANTISATELLITE WEAPON PROGRAM

(a) PROHIBITION.—Residual fiscal year 1988 ASAT funds may not be obligated for the ASAT program.

(b) RESIDUAL FISCAL YEAR 1988 ASAT FUNDS DEFINED.—For purposes of this section, the term "residual fiscal year 1988 ASAT funds" means funds in the amount of $16,000,000 which were appropriated to the Department of Defense for fiscal year 1988 for research, development, test, and evaluation for the Air Force which—

(1) were originally made available for the ASAT program; and

(2) which remain available for obligation following cancellation of that program by the Secretary of Defense.

(c) ASAT PROGRAM DEFINED.—For purposes of subsections (a) and (b), the term "ASAT program" means the program of the Air Force to develop an F-15 launched miniature homing vehicle antisatellite weapon.

SEC. 217. LONG-RANGE CONVENTIONAL CRUISE MISSILE

(a) REPORT.—Not later than December 31, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the plans and projected expenditures for the Long-Range Conventional Cruise Missile program of the Department of Defense.

(b) CONTENT OF REPORT.—The Secretary shall include in such report the following:

(1) The 5-year funding plan for the program.

(2) A discussion of how the program might be carried out under a joint entity of the military services.

(3) A discussion of the military missions that a long-range conventional cruise missile would be designed to fulfill.

(4) A list of the validated military requirements prescribed for a long-range conventional cruise missile.

(5) An estimate of when a long-range conventional cruise missile system incorporating the most recent advances in guidance, propulsion, mission planning, and munitions technologies would be ready for full-scale engineering development and testing of initial operating capability.

102 STAT. 1940

SEC. 218. SEEK SPINNER MISSILE PROGRAM

Funds appropriated or otherwise made available to the Department of Defense pursuant to this Act or any Act enacted after the date of the enactment of this Act may not be obligated or expended for the Seek Spinner Missile program in any configuration.

SEC. 219. DEPRESSED-TRAJECTORY BALLISTIC MISSILES

(a) ESTABLISHMENT OF DEFINITION.—Not later than April 1, 1989, the Secretary of Defense shall prescribe a definition of what constitutes a depressed trajectory for a strategic ballistic missile. The definition shall be prescribed in coordination with the Director of Central Intelligence. The Secretary shall prescribe such definition in specific quantitative terms so as to clearly distinguish ballistic missile trajectories which are depressed from other ballistic missile trajectories, including minimum-energy ballistic missile trajectories, so that if the United States and the Soviet Union mutually observe a policy of non-flight testing of depressed-trajectory strategic ballistic missiles, the observance of that policy—

(1) would, to the maximum possible degree, reduce the potential for a short-time-of-flight attack on strategic aircraft or other strategic assets the survivability or effectiveness of which depends on timely receipt of adequate warning of attack, but

(2) would not significantly affect present or planned practices of the United States for the testing of ballistic missiles that are not intended for development of a depressed-trajectory capability.

(b) REPORT.—Not later than April 1, 1989, the Secretary of Defense shall submit to Congress a report on depressed-trajectory strategic ballistic missiles (as defined under subsection (a)), which shall be prepared in coordination with the Director of Central Intelligence. The report shall set forth the definition prescribed under subsection (a) and shall include each of the following:

(1) An evaluation of the ability of the United States to monitor flight tests by the Soviet Union of depressed-trajectory strategic ballistic missiles (as defined under subsection (a)) on dedicated or nondedicated test ranges.

(2) A description of any past flight test of a ballistic missile by the United States or by the Soviet Union that would qualify as a test of a depressed-trajectory strategic ballistic missile as defined under subsection (a).

(3) An evaluation of the possibility that the Soviet Union could deploy depressed-trajectory ballistic missiles (as defined under subsection (a)) with sufficient confidence in the reliability of those missiles for use in an attack on the United States without further flight testing.

SEC. 220. REQUIREMENT OF COMPETITION FOR AWARD OF GRANTS AND CONTRACTS TO COLLEGES AND UNIVERSITIES FOR CERTAIN PURPOSES

(a) REQUIREMENT OF COMPETITION.—Chapter 139 of title 10, United States Code, is amended by inserting after section 2360 the following new section:

102 STAT. 1941

"§ 2361. Award of grants and contracts to colleges and universities: requirement of competition

"(a) The Secretary of Defense may not make a grant or award a contract to a college or university for the performance of research and development, or for the construction of any research or other facility, unless the grant or contract is made or awarded using competitive procedures.

"(b) A provision of law enacted after the date of the enactment of this section may not be construed as modifying or superseding the provisions of subsection (a) unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes the provisions of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2360 the following new item:

"2361. Award of grants and contracts to colleges and universities: requirement of competition.".

(c) EFFECTIVE DATE.—The limitation specified in section 2361(a) of title 10, United States Code (as added by subsection (a)), on the authority of the Secretary of Defense to make grants and award contracts shall take effect on October 1, 1989.

PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 221. FUNDING FOR THE STRATEGIC DEFENSE INITIATIVE FOR FISCAL YEAR 1989

(a) AMOUNTS AUTHORIZED.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test and evaluation for fiscal year 1989, not more than $3,738,000,000 may be obligated for the Strategic Defense Initiative.

(b) RESTRICTION ON USE OF FUNDS.—Amounts appropriated to or for the use of the Department of Defense for fiscal year 1989 may not be used to establish a Strategic Defense System Operational Test and Evaluation activity.

(c) REPORT BY SECRETARY OF DEFENSE.—Before the adjournment sine die of the second session of the One Hundredth Congress, the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report on the Space-Based Interceptor (SBI) program of the Strategic Defense Initiative. The report shall include a discussion of the following matters with respect to the SBI program:

(1) Role of SBI in the Phase One architecture.
(2) SBI performance in the current system concept.
(3) SBI cost projections.
(4) Technology progress and plans.
(5) Launch requirements.
(6) Other programmatic details.

SEC. 222. REPORT ON ALLOCATION OF SDI FUNDING FOR FISCAL YEAR 1989

(a) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report on the allocation of funds appropriated or otherwise made available for the Strategic Defense Initiative for fiscal year 1989. The report shall specify the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative within each appropriation account.

102 STAT. 1942

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act.

SEC. 223. DEVELOPMENT AND TESTING OF ANTIBALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated to the Department of Defense for fiscal year 1989, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1989 or for any fiscal year before 1989, shall be subject to the limitations prescribed in paragraph (2).

(2) The funds described in paragraph (1) may not be obligated or expended—

(A) for any development or testing of antiballistic missile systems or components except for development and testing consistent with the development and testing described in the March 1988 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of antiballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the March 1988 SDIO Report.

(3) The limitation under paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1989 if the transfer is made in accordance with section 1201 of this Act.

(b) DEFINITION.—As used in this section, the term "March 1988 SDIO Report" means the report entitled, "Report to Congress on the Strategic Defense Initiative", dated March 23, 1988, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives pursuant to section 1102 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 10 U.S.C. 2431 note).

SEC. 224. ACCIDENTAL LAUNCH PROTECTION

(a) FINDINGS.—Congress makes the following findings:

(1) The United States is a signatory to the 1972 Anti-Ballistic Missile Treaty.

(2) The Soviet Union has deployed approximately 1,400 land-based intercontinental ballistic missiles and approximately 900 sea-based ballistic missiles.

(3) There have been several accidents involving ballistic missiles, including the loss of a submarine of the Soviet Union due to inadvertent missile ignition and the inadvertent landing in China of a test missile of the Soviet Union.

(4) Proliferation of ballistic missile technology, such as the action of the People's Republic of China in providing ballistic missiles to Saudi Arabia, raises the possibility of future nuclear threats.

(b) SENSE OF CONGRESS.—It is the sense of Congress— 102 STAT. 1943

(1) that the Secretary of Defense should direct the Strategic Defense Initiative Organization to give priority to development of technologies and systems for a system capable of protecting the United States from the accidental launch of a strategic ballistic missile against the continental United States; and

(2) that such development of an accidental launch protection system should be carried out with an objective of ensuring that such system is in compliance with the 1972 Anti-Ballistic Missile Treaty.

(c) REPORT.—Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the status of planning for development of a deployment option for such an accidental launch protection system.

PART D—STRATEGIC PROGRAMS

SEC. 231. B-1B BOMBER PROGRAM

(a) CONDITION ON OBLIGATION OF FUNDS.—The Secretary of Defense may not obligate funds appropriated for fiscal year 1989 for enhancements or mission-specific equipment or modifications for the B-1B aircraft until the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives the report required by section 243(e)(3) of Public Law 100-180 (101 Stat. 1064). After that report is submitted, funds may be obligated for such purposes only as specifically authorized by law. Reports.

(b) REPORT ON ENHANCEMENT PROGRAM.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth—

(A) the total cost—

(i) of fixing any discrepancies in the baseline; and

(ii) of the enhancements planned or programmed for the B-1B aircraft; and

(B) a description of each type of such fix or enhancement.

(2) Such report shall be submitted in conjunction with the submission of the President's budget for fiscal year 1990 pursuant to section 1105 of title 31, United States Code.

(c) EXPLORATION OF ALTERNATIVE ELECTRONIC WARFARE SYSTEMS.—Of the amounts appropriated to the Air Force pursuant to section 201, the sum of $15,000,000 shall be available only for the purpose of conducting a preliminary evaluation of whether existing electronic warfare systems could be used to replace portions of the ALQ-161 system of the B-1B aircraft in the event that the current plan of the Air Force for recovery of that system fails to achieve the desired results.

SEC. 232. ADVANCED TECHNOLOGY B-2 BOMBER PROGRAM

(a) PROGRAM MANAGEMENT INITIATIVE.—The Secretary of Defense shall require that the cost, performance, and management initiative for the Advanced Technology B-2 Bomber program established pursuant to section 121 of Public Law 100-180 (101 Stat. 1040) include the creation of a full performance matrix.

(b) GAO COST REVIEW.—(1) The Comptroller General of the United States shall review the costs of the Advanced Technology Bomber program. In reviewing such costs, the Comptroller General shall act independently of the Department of Defense.

(2)(A) The Secretary of Defense shall ensure that the Comptroller
102 STAT. 1944 General is given direct, full, and timely access to all information and materials specified in subparagraph (B) in order for the Comptroller General to carry out the cost review required by paragraph (1).

(B) Information and materials referred to in subparagraph (A) are information and materials that are held by, or otherwise available to, the Department of Defense (including the Department of the Air Force) or any contractor for the Advanced Technology Bomber program (including any subcontractor) and that are required by the Secretary of the Air Force for the purpose of performing the required Independent Cost Analysis of the Advanced Technology Bomber program and by the Secretary of Defense for the purpose of performing the Cost Analysis Improvement Group review of that program.

Reports. (3) The Comptroller General shall submit a report on the program cost review under this subsection to the Armed Services Committees not later than March 1, 1989.

(c) REPORT ON TOTAL PROGRAM COST.—The Secretary of Defense shall submit to Congress a report setting forth the total program cost, in constant and in current dollars, of the Advanced Technology B-2 Bomber program. Such report shall be submitted not later than March 1, 1989.

(d) COST MONITORING AND TRACKING.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall conduct an evaluation of the current system for monitoring and tracking costs for the Advanced Technology Bomber program and
Reports. shall prepare an assessment of that system. Not later than March 1, 1989, the Secretary shall submit to the Armed Services Committees a report setting forth the Secretary's findings, based upon such evaluation and assessment, with respect to that system and any recommendations of the Secretary for improving that system.

(e) DEFINITION.—For purposes of this section, the term "Armed Services Committees" means the Committees on Armed Services of the Senate and House of Representatives.

SEC. 233. SENSE OF CONGRESS ON STRATEGIC MISSILE MODERNIZATION PROGRAMS

It is the sense of Congress that the authorization of funds in this Act for research and development for both the small intercontinental ballistic missile system (the so-called Midgetman system) and for the rail-garrison MX system does not constitute a commitment

or express an intent by Congress to provide funds to procure and deploy the Midgetman missile or to deploy any MX missiles in a rail-garrison basing mode or both.

PART E—OTHER PROGRAMS

SEC. 241. ADVANCED SUBMARINE TECHNOLOGY PROGRAM

(a) FISCAL YEAR 1989 FUNDING.—(1) Of the amount appropriated pursuant to section 201 for Defense Agencies, the Secretary of Defense shall make $65,000,000 available only for the purpose of continuing the Advanced Submarine Technology Program initiated in section 211 of Public Law 100-180 (101 Stat. 1048). Amounts appropriated for such purpose for fiscal year 1989 may be used only for that program.

(2) The Secretary of Defense may use funds appropriated for fiscal year 1989 for such program only—

(A) for submarine hull, mechanical, and electrical technologies; and

(B) for nonnuclear propulsion technologies.

102 STAT. 1945

(3) Funds appropriated for fiscal year 1989 for such program may be used for research relating to the effect on submarine design of weapons, sensors, or communications equipment, but may not be used for research on weapons, sensors, or communications equipment.

(4) Funds appropriated for fiscal year 1989 for such program may be used only for exploratory development, advanced technology development, and (as necessary) basic research to support the overall objectives of the program.

(b) PURPOSE OF PROGRAM.—(1) Congress established the Advanced Submarine Technology Program in light of the large amount of activity by the Soviet Union in the area of naval submarines and the declining advantage of the United States in submarine technology.

(2) The purpose of the Advanced Submarine Technology Program is to explore innovative state-of-the-art technologies for advanced submarines and to augment the existing United States submarine technology base in order to establish a sound and increasing submarine technology base.

(3) Congress recognizes that research and development activities with respect to submarine weapons and sensors and high density innovative and advanced nuclear plant systems are necessary and important. However, in light of the purpose of the program to augment the submarine technology base, Congress has in this section provided separate authorization for funding to augment the technology base for submarine hull, mechanical, and electrical systems.

(4) Section 211(a) of Public Law 100-180 is amended— 101 Stat. 1048.

(A) by striking out the second and third sentences of paragraph (1); and

(B) by striking out paragraph (2).

(c) MANAGEMENT OF PROGRAM BY DARPA.—In carrying out the provisions of section 211(a) of Public Law 100-180 that the Advanced Submarine Technology Program be carried out through the Director, Defense Advanced Research Projects Agencies (DARPA), the Secretary of Defense shall provide that the overall management of the execution of such program, including the administration of funds appropriated for the program, be vested in the Director. In managing such program, the Director shall take into consideration the advice of the advisory board established pursuant to congressional direction as part of the fiscal year 1988 budget process.

(d) FIVE-YEAR PLAN.—(1) Not later than October 31, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth a detailed five-year plan for the Advanced Submarine Technology Program. The plan shall update the report submitted pursuant to section 211(b)(1) of Public Law 100-180. Reports.

(2) The report under paragraph (1) shall include the following:

(A) Identification of each of the technologies to be studied or developed under the program.

(B) With respect to each of the technologies to be developed—

(i) identification of responsibility for the execution of the program and the management of the program; and

(ii) milestones for obligating funds under the program and for major program reviews under the program.

102 STAT. 1946

(3) Section 211(b)(2) of Public Law 100-180 is repealed.

(e) ANNUAL REPORTS.—Not later than December 1 of each of the years 1989 through 1994, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the Advanced Submarine Technology Program. Each report shall describe—

(1) the activities carried out under the program during the preceding fiscal year;

(2) the obligation of funds for the program during that fiscal year;

(3) activities accomplished under the program during that fiscal year;

(4) ongoing activities under the program; and

(5) major decisions made by the Director of the Defense Advanced Research Projects Agency that were not supported by the advice of the advisory board referred to in subsection (c) and the reasons why the decisions were so made.

Each such report shall also describe how the matters set forth in paragraphs (1) through (4) meet the criteria established in the five-year plan for the program set out in the report under subsection (d).

(f) PROGRAM DURATION.—In providing funds under this section for the Advanced Submarine Technology Program for fiscal year 1989, Congress expects that the program will be continued in the five-year defense plan of the Secretary of Defense and that the management of the program will continue to be executed through the Defense Advanced Research Projects Agency for an additional three-to-five years.

(g) PROHIBITION ON CONTRACTOR MANAGEMENT.—The Director, Defense Advanced Research Projects Agency, may not carry out the Advanced Submarine Technology Program through obligation of all funding to a single contractor or through the use of management by a single public or private shipyard. The Director, in allocating funds under the program and in light of the purposes of the program, shall seek to obligate funds to a wide variety of recipients.

SEC. 242. PROHIBITION ON TESTING ELECTROMAGNETIC PULSE IN CHESAPEAKE BAY

The Secretary of the Navy may not carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator Program for Ships (EMPRESS II).

SEC. 243. REPORT ON SPACE CONTROL CAPABILITIES

(a) REPORT.—Not later than the date on which the President submits the budget for fiscal year 1990 to Congress under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive report on space control capabilities of the Armed Forces.

(b) CONTENT OF REPORT.—The report shall include the following matters:

(1) A description of requirements for space control capabilities related to deterrence and warfighting objectives, including space surveillance and anti-satellite capabilities, that have been validated by the Chairman of the Joint Chiefs of Staff and transmitted to the commander of the United States Space Command.

(2) A net assessment of the space control capabilities of the United States and the Soviet Union. 102 STAT. 1947

(3) An assessment of current deficiencies in United States space control capabilities and recommendations for overcoming those deficiencies.

(4) A 5-year plan for improving ground- and space-based surveillance systems and their associated command, control, and communications systems and the cost and schedule for implementing the plan.

SEC. 244. REPORT ON COMPETITION FOR DEVELOPMENT OF ADVANCED TACTICAL RECONNAISSANCE SYSTEM

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to Congress a report outlining the plans of the Secretary for establishing, to the maximum extent practicable, competition in the development and production of components for the Advance Tactical Reconnaissance System.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

For the Army, $22,103,900,000.
For the Navy, $24,852,100,000.
For the Marine Corps, $1,817,000,000.
For the Air Force, $21,855,600,000.
For the Defense Agencies, $7,685,400,000.
For the Army Reserve, $794,900,000.
For the Naval Reserve, $979,200,000.
For the Marine Corps Reserve, $77,500,000.
For the Air Force Reserve, $1,033,900,000.
For the Army National Guard, $1,801,200,000.
For the Air National Guard, $1,971,000,000.
For the National Board for the Promotion of Rifle Practice, $4,300,000.
For the Court of Military Appeals, $3,500,000.
For Environmental Restoration, Defense, $500,000,000.
For Humanitarian Assistance, $13,000,000.

(b) GENERAL AUTHORIZATION FOR CONTINGENCIES.—There are authorized to be appropriated for fiscal year 1989, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a).

SEC. 302. WORKING CAPITAL FUNDS

Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows: 102 STAT. 1948

For the Army Stock Fund, $291,900,000.
For the Navy Stock Fund, $184,700,000.
For the Air Force Stock Fund, $186,900,000.
For the Defense Stock Fund, $25,000,000.

SEC. 303. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—The amount authorized in section 301 for humanitarian assistance shall be used for the purpose of providing transpor-

tation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the amount authorized in such section for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in section 301 for humanitarian assistance to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical means available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in section 301 for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

(f) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report not later than 60 days after the date of the enactment of this Act. The Secretary shall also submit a report to those committees not later than June 1, 1989, and not later than June 1 of each year thereafter, until all funds available under this section have been obligated. Each such report shall contain (as of the date on which the report is submitted) the following information:

(A) The total amount of funds obligated for humanitarian relief under the humanitarian relief laws specified in paragraph (2).

(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under the humanitarian relief laws specified in paragraph (2).

102 STAT. 1949

(C) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

(2) The humanitarian relief laws referred to in paragraph (1) are the following:

(A) This section.

(B) Section 331 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3856).

(C) Section 331 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1078).

SEC. 304. TRIPLER ARMY MEDICAL CENTER

Hawaii.

The Secretary of the Army shall establish, during fiscal year 1989, a video teleconferencing center at the Tripler Army Medical Center, Hawaii.

Washington.

SEC. 305. ASSISTANCE TO THE 1990 GOODWILL GAMES

(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of Defense may provide logistical support and personnel services to Federal,

State, and local governmental entities in connection with the 1990 Goodwill Games to be held at Seattle, Washington. Except as provided in subsection (b), such support and services shall be provided by the Secretary on a reimbursable basis.

(b) REIMBURSEMENT WAIVER.—(1) The Secretary may waive the requirement for reimbursement for logistical support and personnel services provided under this section to ensure the security of persons and property in connection with such games if—

(A) the Attorney General of the United States certifies to the Secretary that there are significant potential threats to the security of persons or property, or both, at such games and that other Federal entities and the State and local entities concerned do not have the capability to deal adequately with such potential threats; and

(B) the Attorney General recommends that the requirement for reimbursement for assistance under this section be waived because—

(i) such assistance is necessary to provide the degree of security that is essential in the national interest; and

(ii) unusual circumstances for such assistance make it impractical for other Federal entities or the State or local entities concerned to reimburse the Secretary for such assistance.

(2) Waivers under paragraph (1) shall be made by the Secretary on a case-by-case basis.

(c) AUTHORIZATION.—There is authorized to be appropriated for fiscal year 1989 the amount of $5,000,000 for the purpose of carrying out this section.

(d) RESTRICTION ON FUNDS.—Funds made available to or for the use of the Department of Defense may not be used to provide logistical support or personnel services in connection with the Goodwill Games referred to in subsection (a) unless such funds have been specifically appropriated for such purpose.

(e) COMPUTATION OF AMOUNTS.—In computing the amount that has been expended in carrying out the provisions of this section, the Secretary shall include the pay and allowances of members of reserve components of the Armed Forces called or ordered to active duty (including active duty for training) to provide support for the Goodwill Games referred to in subsection (a), but shall exclude the pay and nontravel related allowances of other members of the Armed Forces serving on active duty.

102 STAT. 1950

SEC. 306. INAUGURATION ASSISTANCE

(a) FURNISHING OF MATERIALS, SUPPLIES, AND SERVICES.—During fiscal year 1989, the Secretary of Defense may, as the Secretary determines to be appropriate and under such conditions as the Secretary may prescribe, lend materials or supplies and provide materials, supplies, or services of personnel to the Inaugural Committee established under the first section of the Presidential Inaugural Ceremonies Act (36 U.S.C. 721 et seq.) or to the joint committee described in section 9 of that Act.

(b) ADDITIONAL AUTHORITY.—The authority provided by subsection (a) is in addition to the authority provided by section 2543 of title 10, United States Code.

SEC. 307. ENHANCEMENT OF CAPABILITY TO COMBAT FRAUD, WASTE, AND ABUSE

In order to enhance the capability of the Department of Defense to combat fraud, waste, and abuse and to assist in restoring public confidence in the defense acquisition process, the Secretary of Defense, not later than September 30, 1989, shall—

(1) increase the number of audit and support personnel assigned within the Office of the Inspector General of the Department of Defense to the Assistant Inspector General for Audit from 550 personnel (as assumed in the President's amended budget request for fiscal year 1989) to not less than 657; and

(2) increase the number of audit and support personnel assigned to the Defense Contract Audit Agency from 6,439 (as assumed in the President's amended budget request for fiscal year 1989) to not less than 7,007.

PART B—LIMITATIONS

SEC. 311. PROHIBITION ON FINANCING CERTAIN ACTIVITIES BY DIRECT APPROPRIATIONS

(a) PROHIBITION.—During fiscal year 1989, the Secretary of the Navy may not take any action with respect to converting or planning the conversion of the operation of an activity specified in subsection (b) from operation as an activity financed by the Naval Industrial Fund (as authorized by section 2208 of title 10, United States Code) to operation as an activity financed by direct appropriations.

(b) ACTIVITIES COVERED.—An activity referred to in subsection (a) is any of the following:

(1) Naval Avionics Center, Indianapolis, Indiana.

(2) Naval Civil Engineering Laboratory, Port Hueneme, California.

(3) Naval Air Engineering Center, Lakehurst, New Jersey.

SEC. 312. PROHIBITION ON JOINT USE OF DOBBINS AIR FORCE BASE WITH CIVIL AVIATION

The Secretary of the Air Force may not enter into an agreement that would provide for or permit the joint use of Dobbins Air Force Base, Marietta, Georgia, by the Air Force and civil aircraft.

102 STAT. 1951

SEC. 313. PROHIBITION ON PURCHASE OF TOSHIBA PRODUCTS FOR RESALE IN MILITARY EXCHANGE STORES

50 USC app. 2410a note.

(a) PROHIBITION.—During the three-year period beginning on the date of the enactment of this Act, no product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation (or any of its affiliates or subsidiaries) may be purchased by the Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, recreation, or resale activity operated by the Department of Defense (either directly or by concessionaire).

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply to microwave ovens manufactured or assembled in the United States.

SEC. 314. LIMITATION ON FUNDING FOR UNITED STATES SOUTHERN COMMAND AIRLIFT

Funds appropriated for operation and maintenance for the Air Force for fiscal year 1989 may not be obligated or expended in connection with any contract for aircraft with short takeoff and landing capability until—

(1) the Secretary of Defense approves a requirements document and an acquisition plan, including costs and schedule information, for an aircraft with short takeoff and landing capability for the United States Southern Command; and

(2) the Secretary of Defense submits both the document and the plan to the Committees on Armed Services of the Senate and the House of Representatives.

SEC. 315. ONE-YEAR EXTENSION OF LIMITATION ON ARMY DEPOT MAINTENANCE FUNDING

(a) ONE-YEAR EXTENSION.—Section 314 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1074) is amended—

(1) in subsection (a), by striking out "fiscal year 1988" and inserting in lieu thereof "fiscal year 1989"; and

(2) in subsection (b)(1)(C), by striking out "fiscal year 1989" and inserting in lieu thereof "fiscal year 1990".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1988.

SEC. 316. OPERATION OF SR-71 DEPOT REWORK FACILITY

California.

The Secretary of the Air Force shall ensure that the facility used for depot support and rework for the SR-71 fleet of aircraft at Palmdale, California, shall remain operational through September 30, 1989.

SEC. 317. MANAGEMENT OF CIVILIAN PERSONNEL DURING FISCAL YEARS 1989 AND 1990

(a) PROHIBITION ON MANAGEMENT BY END-STRENGTH.—During fiscal years 1989 and 1990, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength or any similar or related methodology, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an "end-strength") on the number of such personnel who may be employed on the last day of such fiscal year.

102 STAT. 1952

(b) WAIVER OF CIVILIAN PERSONNEL CEILINGS.—Section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal years 1989 and 1990 or with respect to the appropriation of funds for that year.

(c) SEMIANNUAL REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives semiannual reports on the obligation of funds appropriated for civilian personnel of the Department of Defense for fiscal years 1989 and 1990. Each report shall include—

(1) for each appropriation account, the amounts authorized and appropriated for such personnel for fiscal years 1989 and 1990; and

(2) for each appropriation account and for the entire Department—

(A) the actual number of such personnel employed, and the amount of funds obligated for such personnel, as of the end of each six-month period described in the report; and

(B) the projected number of such personnel to be employed, and amount of funds that will be obligated for such personnel, as of the end of each of fiscal years 1989 and 1990.

SEC. 318. LIMITATION ON OPERATION OF EXISTING POSEIDON CLASS SUBMARINES U.S.S. JAMES MONROE AND U.S.S. HENRY CLAY

Effective as of September 1, 1989, no funds appropriated to the Department of Defense for fiscal year 1989 or a prior year may be obligated or expended—

Effective date.

(1) to overhaul, operate, or deploy the U.S.S. Henry Clay (SSBN 625), except that such funds may be obligated or expended after such date for the operation of such vessel (A) for crew training in port, and (B) for a short underway trial before such vessel proceeds to the inactivating port; or

(2) to overhaul, operate, maintain, or deploy the U.S.S. James Monroe (SSBN 622).

PART C—PERMANENT LAW CHANGES

SEC. 321. LIMITATION ON PRIVATE OPERATION OF COMMISSARY STORES

Contracts.

Section 2482 of title 10, United States Code, is amended by adding at the end the following new sentences: "A contract with a private person for the operation of any commissary store may not require or permit the contractor to carry out functions for the procurement of products to be sold in the store or to engage in functions relating to the overall management of a commissary system or the manage-

ment of any such store. Such functions shall be carried out by personnel of the Department of Defense under regulations approved by the Secretary of Defense.".

SEC. 322. ALLOWABLE COSTS WITH RESPECT TO CERTAIN SERVICE CONTRACTS PERFORMED OVERSEAS

(a) CERTAIN SEVERANCE PAY COSTS NOT ALLOWABLE.—Section 2324(e)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined under regulations prescribed by the Secretary of Defense.".

102 STAT. 1953

10 USC 2324 note.

(b) EFFECTIVE DATE.—Subparagraph (M) of section 2324(e)(1) of title 10, United States Code, as added by subsection (a), shall apply with respect to any contract entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 323. AUTHORITY TO CONTINUE SUPPORT OF SCOUTING ACTIVITIES OVERSEAS

(a) AUTHORITY.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2606. Scouting: cooperation and assistance in foreign areas

"(a) Subject to subsection (b), the Secretary concerned may cooperate with and assist qualified scouting organizations in establishing and providing facilities and services for members of the armed forces and their dependents, and civilian employees of the Department of Defense and their dependents, at locations outside the United States.

Regulations.

"(b) Cooperation and assistance under subsection (a) shall be provided under regulations prescribed by the Secretary of Defense and may be provided only if the President determines that such cooperation and assistance is necessary in the interest of the morale, welfare, and recreation of members of the armed forces.

"(c) Personnel of a qualified scouting organization, including officials certified by that organization as representing that organization, who are performing duties in connection with cooperation and assistance provided under subsection (a) may be furnished—

"(1) transportation at the expense of the United States while traveling to and from, and while performing, such duties in the same manner as civilian employees of the United States; and

"(2) available office space (including space for recreational activities for Boy Scouts and Girl Scouts), warehousing, utilities, and a means of communication, without charge.

"(d) Supplies of a qualified scouting organization may be transported at the expense of the United States if the Secretary concerned determines, under regulations prescribed under subsection (b), that the supplies are necessary to the cooperation and assistance provided under this section.

"(e) The Secretary concerned may reimburse a qualified scouting organization for all or part of the pay of an employee of that organization for any period during which the employee was performing services under subsection (a). Any such reimbursement may not be made from appropriated funds and shall be made under regulations prescribed under subsection (b).

"(f) For the purposes of this section, employees of a qualified scouting organization performing services under subsection (a) may not be considered to be employees of the United States.

"(g) In this section, the term 'qualified scouting organization' means the Girl Scouts of the United States of America and the Boy Scouts of America.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2606. Scouting: cooperation and assistance in foreign areas.".

102 STAT. 1954

SEC. 324. TRANSFERS AND EXCHANGES OF CERTAIN DOCUMENTS, HISTORICAL ARTIFACTS, AND CONDEMNED AND OBSOLETE COMBAT MATERIEL

(a) AUTHORITY.—Section 2572 of title 10, United States Code, is amended to read as follows:

"§ 2572. Documents, historical artifacts, and condemned or obsolete combat materiel: loan, gift, or exchange

"(a) The Secretary concerned may lend or give items described in subsection (c) that are not needed by the military department concerned (or by the Coast Guard, in the case of the Secretary of Transportation), to any of the following:

"(1) A municipal corporation.

"(2) A soldiers' monument association.

"(3) A museum, historical society, or historical institution of a State or a foreign nation.

"(4) An incorporated museum that is operated and maintained for educational purposes only and the charter of which denies it the right to operate for profit.

"(5) A post of the Veterans of Foreign Wars of the United States or of the American Legion or a unit of any other recognized war veterans' association.

"(6) A local or national unit of any war veterans' association of a foreign nation which is recognized by the national government of that nation (or by the government of one of the principal political subdivisions of that nation).

"(7) A post of the Sons of Veterans Reserve.

"(b)(1) Subject to paragraph (2), the Secretary concerned may exchange items described in subsection (c) that are not needed by the armed forces for similar items held by any individual, organization, institution, agency, or nation.

"(2) The Secretary concerned may not make an exchange under paragraph (1) unless the monetary value of property transferred to the United States under the exchange is not less than the value of the property transferred by the United States. The Secretary concerned may waive the limitation in the preceding sentence in any case in which the Secretary determines that the item to be received by the United States in the exchange will significantly enhance the historical collection of the property administered by the Secretary.

"(c) This section applies to the following types of property held by a military department or the Coast Guard: books, manuscripts, works of art, historical artifacts, drawings, plans, models, and condemned or obsolete combat materiel.

"(d)(1) A loan or gift made under this section shall be subject to regulations prescribed by the Secretary concerned and to regulations under section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486).

"(2) The United States may not incur any expense in connection with a loan or gift under subsection (a).".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 153 of such title is amended to read as follows:

"2572. Documents, historical artifacts, and condemned or obsolete combat materiel: loan, gift, or exchange.".

102 STAT. 1955

SEC. 325. QUALIFICATIONS FOR HEAD OF AUDITING FUNCTION IN MILITARY DEPARTMENTS

(a) DEPARTMENT OF THE ARMY.—Section 3014(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The head of the office or other entity established or designated by the Secretary to conduct the auditing function shall have at least five years of professional experience in accounting or auditing. The position shall be considered to be a career reserved position as defined in section 3132(a)(8) of title 5.".

(b) DEPARTMENT OF THE NAVY.—Section 5014(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) The head of the office or other entity established or designated by the Secretary to conduct the auditing function shall have at least five years of professional experience in accounting or auditing. The position shall be considered to be a career reserved position as defined in section 3132(a)(8) of title 5.

"(B) The position of regional director within such office or entity, and any other position within such office or entity the primary responsibilities of which are to carry out supervisory functions, may not be held by a member of the armed forces on active duty.".

(c) DEPARTMENT OF THE AIR FORCE.—Section 8014(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The head of the office or other entity established or designated by the Secretary to conduct the auditing function shall have at least five years of professional experience in accounting or auditing. The position shall be considered to be a career reserved position as defined in section 3132(a)(8) of title 5.".

10 USC 5014 note.

(d) EFFECTIVE DATES.—(1) The requirements of sections 3014(c)(5), 5014(c)(5)(A), and 8014(c)(5) of title 10, United States Code (as added by subsections (a), (b), and (c), respectively), shall apply with respect to any person appointed on or after the date of the enactment of this Act as the head of the office or other entity designated for conducting the auditing function in a military department.

(2) Subparagraph (B) of section 5014(c)(5) of title 10, United States Code (as added by subsection (b)), shall take effect at the end of the one-year period beginning on the date of the enactment of this Act.

SEC. 326. PROHIBITION ON CERTAIN DEPOT MAINTENANCE WORKLOAD COMPETITIONS

(a) IN GENERAL.—Chapter 146 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2466. Prohibition on certain depot maintenance workload competitions

"The Secretary of Defense may not require the Secretary of the Army or the Secretary of the Air Force, in selecting an entity to perform any depot maintenance workload, to carry out a competition for such selection—

"(1) between or among maintenance activities of the Department of the Army and the Department of the Air Force; or

"(2) between a maintenance activity of either such department and a private contractor.".

102 STAT. 1956

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2466. Prohibition on certain depot maintenance workload competitions.".

SEC. 327. REPORT ON MANPOWER, MOBILITY, SUSTAINABILITY, AND EQUIPMENT

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the readiness of the Armed Forces, in terms of manpower, mobility, sustainability, and equipment, to perform their assigned missions. The report shall be based on the manpower and other resources planned for the Armed

Forces in the 1990–1991 biennial budget for the Department of Defense.

(b) MATTERS TO BE INCLUDED IN REPORT.—The Secretary shall include the following in the report required by subsection (a):

(1) A detailed analysis of trends in readiness and sustainability of the military forces of the United States over the five-year period 1985 to 1989 and, based on the current Five-Year Defense Program or other planning document approved by the Secretary, a projection of such trends over the succeeding five-year period.

(2) A detailed evaluation of the readiness and sustainability of the unified combatant commands and the specified combatant commands of the Armed Forces.

(3) A discussion of—

(A) the readiness and sustainability of the military forces of the United States in terms of the standards approved by the Secretary of Defense;

(B) the readiness and sustainability of allied forces of the United States; and

(C) the readiness and sustainability of potential enemy forces.

(4) A list of all improvements that need to be made in the readiness and sustainability of the manpower, mobility, and equipment of the Armed Forces to correct major shortfalls of the unified combatant commands and the specified combatant commands, the relative priority of each such improvement, and the estimated cost of each such improvement.

(5) Such other information regarding the readiness of the Armed Forces, in terms of manpower, mobility, sustainability, and equipment, as the Secretary considers appropriate.

(c) PRIORITY FOR IMPROVEMENTS.—The relative priority of the improvements referred to in subsection (b)(4) shall be determined by the Secretary on the basis of the improvements necessary to ensure the ability of the Armed Forces to perform their assigned missions and the ability of the United States to meet its military commitments.

(d) REPORT DEADLINE.—The Secretary shall submit the report required by subsection (a), together with such comments and recommendations as the Secretary considers appropriate, not later then February 15, 1989.

102 STAT. 1957

SEC. 328. LEASE OF AIRCRAFT FOR FLEET ELECTRONIC WARFARE SUPPORT GROUP ACTIVITIES

The Secretary of the Navy may lease aircraft for Fleet Electronic Warfare Support Group activities in accordance with section 2401 of title 10, United States Code, if the cost of such a lease is less than the cost of operating and maintaining the same number of existing aircraft of the Navy for that purpose.

PART D—CONTRACTING OUT

SEC. 331. REQUIREMENTS FOR CERTAIN CIRCULAR A-76 PROCEDURES

(a) IN GENERAL.—Chapter 146 of title 10, United States Code, as amended by section 326, is further amended by adding at the end the following new section:

"§ 2467. Cost comparisons: requirements with respect to retirement costs and consultation with employees

10 USC 2467.

"(a) REQUIREMENT TO INCLUDE RETIREMENT COSTS.—(1) In any comparison conducted by the Department of Defense under Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy) of the cost of performing commercial activities by Department of Defense personnel and the cost of performing such activities by contractor personnel, the Secretary of

Defense shall include retirement system costs (as described in paragraphs (2) and (3)) of both the Department of Defense and the contractor.

"(2) The retirement system costs of the Department of Defense shall include (to the extent applicable) the following:

"(A) The cost of the Federal Employees' Retirement System, valued by using the normal-cost percentage (as defined by section 8401(23) of title 5, United States Code).

"(B) The cost of the Civil Service Retirement System under subchapter III of chapter 83 of such title 5.

"(C) The cost of the thrift savings plan under subchapter III of chapter 84 of such title 5.

"(D) The cost of the old age, survivors, and disability insurance taxes imposed under section 3111(a) of the Internal Revenue Code of 1986.

"(3) The retirement system costs of the contractor shall include the cost of the old age, survivors, and disability insurance taxes imposed under section 3111(a) of the Internal Revenue Code of 1986, the cost of thrift or other retirement savings plans, and other relevant retirement costs.

"(b) REQUIREMENT TO CONSULT DOD EMPLOYEES.—(1) Each officer or employee of the Department of Defense responsible for determining under Office of Management and Budget Circular A-76 whether to convert to contractor performance any commercial activity of the Department—

"(A) shall, at least monthly during the development and preparation of the performance work statement and the management efficiency study used in making that determination, consult with civilian employees who will be affected by that determination and consider the views of such employees on the development and preparation of that statement and that study; and

102 STAT. 1958

"(B) may consult with such employees on other matters relating to that determination.

"(2)(A) In the case of employees represented by a labor organization accorded exclusive recognition under section 7111 of title 5, United States Code, consultation with representatives of that labor organization shall satisfy the consultation requirement in paragraph (1).

"(B) In the case of employees other than employees referred to in subparagraph (A), consultation with appropriate representatives of those employees shall satisfy the consultation requirement in paragraph (1).

Regulations.

"(3) The Secretary of Defense shall prescribe regulations to carry out this subsection. The regulations shall include provisions for the selection or designation of appropriate representatives of employees referred to in paragraph (2)(B) for purposes of consultation required by paragraph (1).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2467. Cost comparisons: requirements with respect to retirement costs and consultation with employees.".

SEC. 332. PERFORMANCE OF FIREFIGHTING AND SECURITY GUARD FUNCTIONS AT AMCHITKA, ALASKA

(a) AUTHORITY TO CONTRACT.—The Secretary of the Navy may contract for the performance of firefighting and security guard functions required by the Navy at the over-the-horizon radar site at Amchitka, Alaska.

(b) INAPPLICABILITY OF LIMITATION ON USE OF FUNDS.—Section 2693 of title 10, United States Code, shall not apply with respect to the authority provided in subsection (a).

PART E—DEFENSE SUPPLIES SECURITY AND CONTROL

SEC. 341. DEFENSE SUPPLY MANAGEMENT STUDIES AND MODERNIZATION PLAN

10 USC 2891 note.

(a) DEFENSE INVENTORY SECURITY AND CONTROL ENHANCEMENT STUDY.—(1) The Secretary of Defense shall carry out a study to determine the effectiveness of Department of Defense procedures for ensuring security and control of supplies at Department of Defense depots.

(2)(A) Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study. The Secretary may submit the report in both classified and unclassified forms if the Secretary considers it necessary to do so in the interest of national security.

Reports.

(B) The Secretary of Defense, at the same time as the Secretary submits the report to Congress under subparagraph (A), shall transmit a copy of the report to the Comptroller General of the United States.

(3) The Comptroller General shall—

(A) review the report transmitted by the Secretary of Defense under paragraph (2)(B); and

(B) submit to the Committees on Armed Services of the Senate and the House of Representatives, within 90 days after the date on which the Comptroller General receives such report, any findings and recommendations on procedures for ensuring the security and control of supplies at Department of Defense depots that the Comptroller General considers appropriate.

102 STAT. 1959

(b) ANALYSIS OF SALES OF SURPLUS MUNITIONS.—The Secretary of Defense shall—

(1) conduct a cost-benefit analysis of the practice of selling surplus Department of Defense munitions to the public and to licensed dealers; and

(2) submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than 180 days after the date of the enactment of this Act, a report containing a description and discussion of each such practice.

Reports.

(c) SUPPLY TRACEABILITY ENHANCEMENT.—The Secretary of Defense shall—

(1) develop improved methods for the identification of and accounting for individual items of ammunition, explosives, and other Department of Defense supplies that are susceptible to pilferage; and

(2) submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than one year after the date of the enactment of this Act, a report containing a description and discussion of each such method.

Reports.

(d) SUPPLY SYSTEM MODERNIZATION PLAN.—The Secretary of Defense shall—

(1) prepare a plan for the modernization of the supply facilities and supply distribution procedures of each of the military departments and Defense Agencies of the Department of Defense; and

(2) not later than one year after the date of the enactment of this Act, transmit a copy of such plan to the Committees on Armed Services of the Senate and the House of Representatives.

SEC. 342. SUPPLY SECURITY AND CONTROL IMPROVEMENTS

(a) SECURITY AND CONTROL OF SUPPLIES: REPORTS, FUNDING, PROCEDURES.—(1) Part IV of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 171—SECURITY AND CONTROL OF SUPPLIES

"Sec.
"2891. Security and control of supplies: annual report.
"2892. Miscellaneous procedures.

10 USC 2891.

"§ 2891. Security and control of supplies: annual report

"(a) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report for each of fiscal years 1989, 1990, and 1991 on security and control of Department of Defense supplies. Each such report shall be submitted not later than four months after the end of the fiscal year for which the report is submitted.

"(b) Each report shall include the following:

"(1) A summary of each of the physical inventory program plans of the Department of Defense, the Defense Logistics Agency, and the military departments for the fiscal year in which the report is submitted.

102 STAT. 1960

"(2) A discussion of the deficiencies, if any, in the security and control of Department of Defense supplies in the fiscal year preceding the year in which the report is submitted and a discussion of the extent to which such deficiencies have been corrected.

"(3) A discussion of—

"(A) research and development projects carried out by the Department of Defense in such preceding fiscal year for the improvement of the inventory and recordkeeping capabilities of the Department;

"(B) any proposals for expeditious application of any new technology resulting from such projects; and

"(C) the budget needs for research and development for such purpose in the fiscal year in which the report is submitted and any subsequent fiscal year for which the budget needs have been determined.

"(4) The budget authority made available to the Department of Defense for inventory control functions in the fiscal year in which the report is submitted and in each of the five fiscal years preceding such fiscal year.

"(5) The budget authority proposed for such purpose in the budget submitted to Congress under section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted.

"(6) The budget authority needed for such purpose in each of the five fiscal years following the fiscal year for which such budget is submitted.

"(7) An evaluation of the effectiveness of supply inventory control in the fiscal year preceding the fiscal year in which the report is submitted, the criteria used by the Secretary to make such evaluation, and the information considered by the Department in making the evaluation, including the value of supplies lost or stolen or for which accountability has otherwise been lost.

"(8) The aggregate statistics for all incidents of theft, fraud, or breach of security involving Department of Defense supplies that were investigated by military or civilian law enforcement agencies during the fiscal year preceding the fiscal year in which the report is submitted (including incidents involving munitions), a summary description of all such incidents (including the circumstances under which the incidents occurred), and the lessons learned by the Department of Defense from such incidents.

"§ 2892. Miscellaneous procedures 10 USC 2892.

"(a) The Secretary of Defense shall require an investigation of each discrepancy in an accounting for supplies of the Department of Defense involving an amount exceeding the amount determined under procedures prescribed by the Secretary. The Secretary shall prescribe procedures that provide for random investigation of physical inventory discrepancies, regardless of the value of the property involved in the discrepancy.

"(b) The Secretary shall, to the extent feasible, require that the job function of supply ordering and the job function of supply receiving be performed by different offices and individuals.

"(c) The Secretary shall ensure— 102 STAT. 1961

"(1) that the employees of the Department of Defense and members of the armed forces assigned to manage Department of Defense supplies are skilled in the management of such supplies; and

"(2) that no employee of the Department of Defense and no member of the armed forces is assigned to perform such function for disciplinary reasons.".

(2) The tables of chapters at the beginning of such part and such subtitle are each amended by adding at the end the following new item:

"171. Security and Control of Supplies ..... 2891".

(b) REPORT EXCEPTION.—The Secretary of Defense may omit in the report for any fiscal year under section 2891 of title 10, United States Code, as added by subsection (a), the information relating to any of fiscal years 1983 through 1988, described in subsection (b)(4) of such section, for which the Secretary determines that there are inadequate records. 10 USC 2891 note.

SEC. 343. INVENTORY INVESTIGATIONS 10 USC 2891 note.

(a) UNDERCOVER INVESTIGATIONS.—(1) Congress finds that the use of undercover investigative techniques by the Department of Defense enhances the ability of the Department of Defense to detect and investigate theft of Government property (including munitions) from the Department of Defense supply system.

(2) The Secretary of Defense is urged to continue to conduct undercover investigations to detect and investigate thefts referred to in paragraph (1).

(b) INVENTORY SECURITY INCIDENT REPOSITORY.—The Secretary of Defense shall establish and maintain a centralized computer system for recording and organizing information on theft, fraud, and breach of security and incidents involving the loss of Department of Defense supplies (including munitions).

SEC. 344. REPORTS TO THE SECRETARY OF THE TREASURY OF LOSSES OF MUNITIONS

(a) IN GENERAL.—Chapter 161 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2722. Theft or loss of ammunition, destructive devices, and explosives: report to Secretary of the Treasury 10 USC 2722.

"(a) IN GENERAL.—The Secretary of Defense shall report the theft or other loss of any ammunition, destructive device, or explosive material from the stocks of the Department of Defense to the Secretary of the Treasury within 72 hours, if possible, after the discovery of such theft or loss.

"(b) EXCLUSION FOR CERTAIN ITEMS.—The Secretary of Defense may exclude from the reporting requirement under subsection (a) any item referred to in that subsection if—

"(1) the Secretary determines that the item represents a low risk of danger to the public and would be of minimal utility to any person who may illegally receive such item; and

"(2) the exclusion of such item is specified as being excluded from the reporting requirement in a memorandum of agreement between the Secretary of Defense and the Secretary of the Treasury.

102 STAT. 1962

"(c) DEFINITIONS.—In this section:

"(1) The term 'explosive material' means explosives, blasting agents, and detonators.

"(2) The terms 'destructive device' and 'ammunition' have the meanings given those terms by paragraphs (4) and (17), respectively, of section 921 of title 18.".

(b) CLERICAL AMENDMENTS.—(1) Chapter 161 of such title is further amended—

(A) by striking out the chapter heading at the beginning and inserting in lieu thereof the following:

"CHAPTER 161—PROPERTY RECORDS AND REPORT OF THEFT OR LOSS OF CERTAIN PROPERTY"

and

(B) by adding at the end of the table of sections at the beginning of such chapter the following new item:

"2722. Theft or loss of ammunition, destructive devices, and explosives: report to Secretary of the Treasury.".

(2) The tables of chapters at the beginning of part A, and at the beginning of part IV of part A, of such title are each amended by striking out the item relating to chapter 161 and inserting in lieu thereof the following:

"161. Property Records and Report of Theft or Loss of Certain Property..... 2721".

10 USC 2722 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to thefts and losses discovered more than 180 days after the date of the enactment of this Act.

PART F—STUDIES AND REPORTS

SEC. 351. STUDY OF DEPARTMENT OF DEFENSE SAFETY STANDARDS FOR TRANSPORTATION OF HAZARDOUS MATERIALS

Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the adequacy of Department of Defense safety standards for the transportation of hazardous materials.

SEC. 352. REPORT ON THE USE OF DEGRADABLE PLASTIC ITEMS BY DEPARTMENT OF DEFENSE

(a) STUDY.—The Secretary of Defense shall conduct a study of the use of disposable plastic items by the Department of Defense during fiscal year 1989 in order to identify the types of such items used by the Department of Defense and to determine the approximate quantity of those items used annually by the Department of Defense and to identify which of those items are degradable and which are not degradable.

(b) REPORT.—Not later than March 1, 1990, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the study required by subsection (a). The report shall include—

(1) recommendations of the Secretary concerning the feasibility of substituting degradable plastic items for nondegradable plastic items identified in the study that are needed by the Department of Defense; and

102 STAT. 1963

(2) a description of—

(A) the availability of degradable plastic items that are suitable substitutes for the nondegradable plastic items identified; and

(B) any additional cost to the United States that would result from conversion to the use of such degradable plastic items over the cost of continued use of the nondegradable plastic items.

SEC. 353. NAVY PARTICIPATION IN FEASIBILITY STUDY OF SUNSET HARBOR PROJECT, CALIFORNIA

(a) REQUIRED FUNDING.—The Secretary of the Navy shall obligate not less than $100,000 as the contribution by the Department of the Navy to the feasibility study by the Army Corps of Engineers of the Sunset Harbor Project, California, which was authorized by Public Law 99-662.

(b) SOURCE OF FUNDS.—For the purpose described in subsection (a), the Secretary of the Navy may use operation and maintenance funds appropriated to or for the use of the Department of the Navy for fiscal year 1989.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

The Armed Forces are authorized end strengths for active duty personnel as of September 30, 1989, as follows:

(1) The Army, 771,800, of which not more than 106,927 may be officers.

(2) The Navy, 593,200, of which not more than 72,610 may be officers.

(3) The Marine Corps, 197,200, of which not more than 20,120 may be officers.

(4) The Air Force, 575,100, of which not more than 105,038 may be officers.

SEC. 402. REPEAL OF MANDATORY REDUCTIONS IN STRENGTH OF ACTIVE DUTY OFFICER CORPS

(a) PUBLIC LAW 99-661.—Section 403 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3859) is amended by striking out the last line (relating to September 30, 1989) in the table in subsection (a). 10 USC 521 note.

(b) PUBLIC LAW 100-180.—Section 402(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1081) is repealed. 10 USC 521 note.

(c) LIMITATIONS FOR FISCAL YEAR 1990.—(1) The number of officers serving on active duty (excluding officers in categories specified in paragraph (2)) as of September 30, 1990, may not exceed— 10 USC 521 note.

(A) in the case of the Army, 106,427; and

(B) in the case of the Air Force, 102,438.

(2) Officers in the categories described in section 403(b) of the National Defense Authorization Act for Fiscal Year 1987 shall be excluded in counting officers under this subsection.

SEC. 403. TEMPORARY REDUCTION IN NUMBER OF AIR FORCE COLONELS 10 USC 523 note.

The number of officers that (but for this section) would be authorized under section 523 of title 10, United States Code, and other applicable provisions of law to be serving on active duty in the Air Force in the grade of colonel during fiscal year 1989 is hereby reduced by 125, and the number of such officers that (but for this section) would be so authorized to be serving on active duty during fiscal year 1990 is hereby reduced by 250. 102 STAT. 1964

PART B—RESERVE FORCES

SEC. 411. END STRENGTHS FOR SELECTED RESERVE

(a) AUTHORIZATION.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1989, as follows: 10 USC 261 note.

(1) The Army National Guard of the United States, 457,300.
(2) The Army Reserve, 320,600.
(3) The Naval Reserve, 152,600.
(4) The Marine Corps Reserve, 43,600.
(5) The Air National Guard of the United States, 115,200.
(6) The Air Force Reserve, 83,600.
(7) The Coast Guard Reserve, 13,000.

(b) CONFORMING AMENDMENTS.—(1) Section 411(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1082) is amended by striking out "or subsection (b)" and inserting in lieu thereof "or section 411(a) of the National Defense Authorization Act, Fiscal Year 1989".

10 USC 261 note.

(2) Section 411(d) of such Act is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a) and by section 411(a) of the National Defense Authorization Act, Fiscal Year 1989".

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

Within the strengths prescribed in section 411, the reserve components of the Armed Forces are authorized, as of September 30, 1989, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 25,725.
(2) The Army Reserve, 13,329.
(3) The Naval Reserve, 21,991.
(4) The Marine Corps Reserve, 1,945.
(5) The Air National Guard of the United States, 7,948.
(6) The Air Force Reserve, 657.

SEC. 413. CLARIFICATION OF APPLICABILITY OF PRIOR AMENDMENTS RELATING TO NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

The provisions of section 5 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1020) may not be construed as applying to the amendments made by subsections (a)(2) and (b)(2) of section 413 of such Act.

PART C—MILITARY TRAINING

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) IN GENERAL.—For fiscal year 1989, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 80,281.
(2) The Navy, 65,925.
(3) The Marine Corps, 18,064.
(4) The Air Force, 36,857.
(5) The Army National Guard of the United States, 19,561.
(6) The Army Reserve, 17,190.
(7) The Naval Reserve, 3,136.
(8) The Marine Corps Reserve, 3,459.
(9) The Air National Guard of the United States, 2,868.
(10) The Air Force Reserve, 1,827.

(b) ADJUSTMENTS.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustment shall be apportioned.

PART D—AUTHORIZATION OF APPROPRIATIONS

SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL FOR FISCAL YEAR 1989

There is hereby authorized to be appropriated to the Secretary of Defense for military personnel for fiscal year 1989 a total of $78,461,000,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1989.

TITLE V—MILITARY PERSONNEL POLICY

PART A—OFFICER PERSONNEL POLICY

SEC. 501. SELECTION BOARDS

(a) INFORMATION FURNISHED TO BOARDS.—Section 615 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out clause (4) and inserting in lieu thereof the following:

"(4) information or guidelines relating to the needs of the armed force concerned for officers having particular skills, including guidelines or information relating to the need for either a minimum number or a maximum number of officers with particular skills within a competitive category;"; and

(2) by adding at the end the following new subsection:

"(c) Information or guidelines furnished to a selection board under subsection (a) may not be modified, withdrawn, or supplemented after the board submits the report to the Secretary of the military department concerned pursuant to section 617(a) of this title, except that, in the case of a report returned to a board pursuant to section 618(a)(2) of this title for further proceedings because of a determination by the Secretary of the military department concerned that the board acted contrary to law, regulation, or guidelines, the Secretary may modify, withdraw, or supplement such information or guidelines as part of a written explanation to the board as provided in that section.". Reports.

102 STAT. 1966

(b) RECOMMENDATIONS FOR PROMOTION.—Section 616(a) of such title is amended by inserting "(as noted in the guidelines or information furnished the board under section 615(a) of this title)" after "particular skills". 10 USC 616.

(c) REPORTS OF SELECTION BOARD.—Section 617(a)(2) of such title is amended by inserting "(as noted in the guidelines or information furnished the board under section 615(a) of this title)" after "concerned".

(d) ACTION ON REPORTS.—(1) Subsection (a) of section 618 of such title is amended to read as follows:

"(a)(1) Upon receipt of the report of a selection board submitted to him under section 617(a) of this title, the Secretary of the military department concerned shall review the report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under section 615(a) of this title. Following such review, unless the Secretary concerned makes a determination as described in paragraph (2), the Secretary shall submit the report as required by subsection (b) or (c), as appropriate.

"(2) If, on the basis of a review of the report under paragraph (1), the Secretary of the military department concerned determines that the board acted contrary to law or regulation or to guidelines furnished the board under section 615(a) of this title, the Secretary shall return the report, together with a written explanation of the basis for such determination, to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this paragraph, the selection board (or a subsequent selection board convened under section 611(a) of this title for the same grade and

competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with section 617 of this title.".

(2) Subsection (c)(1) of such section is amended—

(A) by striking out ", modification,"; and

(B) by adding at the end the following: "If the authority of the President under this paragraph to approve or disapprove the report of a selection board is delegated to the Secretary of Defense, it may not be redelegated except to an official in the Office of the Secretary of Defense.".

10 USC 615 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of the enactment of this Act and shall apply with respect to selection boards convened under section 611(a) of title 10, United States Code, on or after that effective date.

SEC. 502. REMOVAL FROM PROMOTION LIST

(a) AUTHORITY TO REMOVE.—The first sentence of section 5905(a) of title 10, United States Code, is amended to read as follows: "The President may remove the name of any reserve officer from a promotion list established under this chapter.".

President of U.S. 10 USC 5905 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to removal actions taken by the President on or after the date of the enactment of this Act.

102 STAT. 1967

SEC. 503. SELECTIVE EARLY RETIREMENT FOR CERTAIN PRE-DOPMA NAVY AND MARINE CORPS OFFICERS

(a) CONFORMANCE TO ARMY AND AIR FORCE PROVISIONS.—Subsection (a)(2) of section 613 of the Defense Officer Personnel Management Act (Public Law 96-513; 10 U.S.C. 611 note) is amended—

(1) by striking out "or" at the end of clause (B);

(2) by striking out the period at the end of clause (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new clause:

"(D) selected for early retirement under section 638 of title 10, United States Code.".

(b) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) by striking out "on the effective date of this Act" in the matter in subsection (a)(1) preceding clause (A) and inserting in lieu thereof "on September 15, 1981"; and

(2) by striking out "on the day before the effective date of this Act" each place it appears in such section and inserting in lieu thereof "on September 14, 1981".

SEC. 504. TECHNICAL REVISION OF SECTION 638 OF TITLE 10, UNITED STATES CODE

Subsection (a) of section 638 of title 10, United States Code, is amended to read as follows:

"(a)(1) A regular officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps may be considered for selective early retirement by a selection board convened under section 611(b) of this title if the officer is described in any of subparagraphs (A) through (D) as follows:

"(A) An officer holding the regular grade of lieutenant colonel or commander who has failed of selection for promotion to the grade of colonel or, in the case of an officer of the Navy, captain two or more times and whose name is not on a list of officers recommended for promotion.

"(B) An officer holding the regular grade of colonel or, in the case of an officer of the Navy, captain who has served at least four years of active duty in that grade and whose name is not on a list of officers recommended for promotion.

"(C) An officer holding the regular grade of brigadier general or rear admiral (lower half) who has served at least three and one-half years of active duty in that grade and whose name is not on a list of officers recommended for promotion.

"(D) An officer holding the regular grade of major general or rear admiral who has served at least three and one-half years of active duty in that grade.

"(2) The Secretary of the military department concerned shall specify the number of officers described in paragraphs (1)(A) and (1)(B) which a selection board convened under section 611(b) of this title may recommend for early retirement. Such number may not be more than 30 percent of the number of officers considered in each grade in each competitive category.".

PART B—JOINT OFFICER PERSONNEL POLICY

SEC. 511. WAIVER AUTHORITY WITH RESPECT TO SELECTION OF OFFICERS FOR THE JOINT SPECIALTY

The last sentence of section 661(c)(3)(D) of title 10, United States Code, is amended—

(1) by inserting "for officers in the same pay grade" after "under this paragraph";

(2) by striking out "5 percent" and inserting in lieu thereof "10 percent"; and

(3) by inserting "in that pay grade" after "number of officers".

SEC. 512. JOINT SPECIALTY OFFICERS IN CRITICAL JOINT DUTY ASSIGNMENTS

(a) FLEXIBILITY FOR CRITICAL JOINT DUTY ASSIGNMENT POSITIONS.—Section 661(d)(2) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking out the last sentence; and

(3) by adding at the end the following:

"(B) Until January 1, 1994, at least 80 percent of the positions designated by the Secretary under subparagraph (A) shall be held at all times by officers who have the joint specialty. On and after January 1, 1994, each position so designated may (subject to subparagraph (C)) be held only by an officer who has the joint specialty. Termination date. Effective date.

"(C) The Secretary of Defense may, on a case-by-case basis, waive the requirement in the second sentence of subparagraph (B) with respect to a particular assignment of an officer to a position designated as a critical joint duty assignment position. The authority of the Secretary to make such a waiver may be delegated only to the Chairman of the Joint Chiefs of Staff.

"(D) During the period beginning on October 1, 1992, and ending on January 1, 1993, the Secretary of Defense shall submit to Congress a report on the operation, to the date of the report, of the first sentence of subparagraph (B) and on the Secretary's projection for the use of the waiver authority provided under subparagraph (C), including the Secretary's estimate of the average annual number of waivers to be provided under subparagraph (C).". Effective date. Termination date. Reports.

(b) REVISION OF ANNUAL REPORT.—Section 667 of such title is amended—

(1) by redesignating paragraph (16) as paragraph (17); and

(2) inserting after paragraph (15) the following new paragraph:

"(16) During the period of the applicability of the first sentence of subparagraph (B) of section 661(d)(2) of this title, information on critical positions not filled by officers with the joint specialty, including—

"(A) a listing by organization of the joint duty assignment positions which were not filled by officers with the joint specialty;

"(B) an explanation of the reasons such positions were not filled by officers with the joint specialty, described by the categories of such reasons; and

"(C) the percentage of critical joint duty assignment positions held by officers who have the joint specialty.".

102 STAT. 1969

SEC. 513. PROMOTION POLICY OBJECTIVES FOR OFFICERS WITH THE JOINT SPECIALTY

Section 662(a) of title 10, United States Code, is amended by inserting "to the next higher grade" in paragraphs (1) and (3) after "promoted".

SEC. 514. LENGTH OF JOINT DUTY ASSIGNMENTS

Section 664 of title 10, United States Code, is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "three years" in paragraph (1) and inserting in lieu thereof "two years"; and

(B) by striking out "three and one-half years" in paragraph (2) and inserting in lieu thereof "three years".

(2) Subsection (c)(1) is amended—

(A) by striking out "has been" and inserting in lieu thereof "is"; and

(B) by striking out "before such assignment begins".

(3) Subsection (d)(2) is amended by inserting "which is less than the applicable standard prescribed in subsection (a)" after "Hawaii".

(4) Subsection (f) is amended—

(A) by striking out "or" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu a semicolon; and

(C) by adding at the end the following new paragraphs:

Alaska.
Hawaii.

"(4) a joint duty assignment outside the United States or in Alaska or Hawaii for which the normal accompanied-by-dependents tour of duty is prescribed by regulation to be at least two years in length, if the officer serves in the assignment for a period equivalent to the accompanied-by-dependents tour length (except that not more than 6 percent of all joint duty assignments may be considered to be under this paragraph at any time); or

"(5) a joint duty assignment with respect to which the Secretary of Defense has granted a waiver under subsection (b), but only in a case in which the Secretary determines that the service completed by that officer in that duty assignment shall be considered to be a full tour of duty in a joint duty assignment.".

(5) Subsection (g)(3) is amended by striking out "shall be excluded—" and all that follows in that subsection and inserting in lieu thereof "shall be excluded if the officer served less than 10 months in that assignment.".

(6) Such section is further amended by adding at the end the following new subsection:

"(h) CONSTRUCTIVE CREDIT.—(1) The Secretary of Defense may accord constructive credit in the case of an officer (other than a general or flag officer) who, for reasons of military necessity, is reassigned from a joint duty assignment within 60 days of meeting the tour length criteria prescribed in subsection (f)(1), (f)(2), (f)(4), or (g)(2). The amount of constructive service that may be credited to such officer shall be the amount sufficient for the completion of the applicable tour of duty requirement, but in no case more than 60 days.

"(2) For the purpose of computing under subsection (e) the average length of joint duty assignments during a fiscal year, the amount of any constructive service credited under this subsection with respect to a joint duty assignment to be counted in that computation shall be excluded.

102 STAT. 1970

"(3) This subsection shall not apply in the case of an officer who serves less than 10 months in the joint duty assignment.".

SEC. 515. ADDITIONAL TRANSITION PROVISIONS FOR IMPLEMENTATION OF PREREQUISITE FOR PROMOTION TO INITIAL FLAG AND GENERAL OFFICER GRADE

(a) NAVY NUCLEAR PROPULSION OFFICERS.—(1) Section 619(e) of title 10, United States Code, is amended—

(A) by striking out "January 1, 1992" in the second sentence of paragraph (1) and inserting in lieu thereof "January 1, 1994"; and

(B) by adding at the end the following new paragraph:

"(5) Not later than March 1 of each year from 1989 through 1994, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation during the preceding calendar year of the transition plan developed by the Secretary pursuant to section 1305(b) of Public Law 100-180 (101 Stat. 1173) with respect to service by qualified nuclear propulsion officers in joint duty assignments.". Reports.

(2) Section 1305(b) of Public Law 100-180 is amended by striking out "January 1, 1992" each place it appears and inserting in lieu thereof "January 1, 1994". 10 USC 619 note.

(3) The Secretary of Defense, after consultation with the Chairman of the Joint Chiefs of Staff, shall revise the transition plan developed pursuant to section 1305(b) of Public Law 100-180 to take account of the amendments made by paragraphs (1) and (2). The Secretary shall include with the first report of the Secretary under section 619(e)(5) of title 10, United States Code, as added by paragraph (1)(B), a report on the actions of the Secretary in revising such transition plan. 10 USC 619 note. Reports.

(b) WAIVER AUTHORITY.—(1) Paragraph (2) of section 619(e) of title 10, United States Code, is amended—

(A) by striking out "and" at the end of subparagraph (C); and

(B) by striking out subparagraph (D) and inserting in lieu thereof the following:

"(D) in the case of an officer who served in a joint duty assignment that began before January 1, 1987, if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) for his service to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986; and

"(E) until January 1, 1994, in the case of an officer who— Termination date.

"(i) served in an assignment (other than a joint duty assignment) that began before October 1, 1986, and that involved significant experience in joint matters (as determined by the Secretary) if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) for his service to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986; or

"(ii) served in a joint duty assignment for not less than two years during which the officer is selected for promotion to the grade of brigadier general or rear admiral (lower half).".

(2) Paragraph (3)(C) of such section is amended by striking out "paragraph (2)(B), (2)(C), or (2)(D)" and inserting in lieu thereof "paragraph (2) (other than under subparagraph (A) of that paragraph)".

SEC. 516. EXTENSION OF TRANSITION TO JOINT DUTY ASSIGNMENT STAFFING REQUIREMENTS

(a) GENERAL EXTENSION.—Subsection (a) of section 406 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 1033) is amended to read as follows: 10 USC 661 note

"(a) JOINT DUTY ASSIGNMENTS.—(1) Section 661(d) of title 10, United States Code, shall be implemented as rapidly as possible and (except as provided under paragraph (2)) not later than October 1, 1989.

"(2) The first sentence of section 661(d)(2)(B) of such title shall apply with respect to positions designated under the first sentence of section 661(d)(2)(A) of that title as critical joint duty assignment positions which become vacant after January 1, 1989.".

(b) TRANSITION.—Subsection (b)(1)(B) of such section is amended by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) waive the requirement for the length of a joint duty assignment in the case of a joint duty assignment begun by an officer before January 1, 1987, if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986; or

"(iii) consider as a joint duty assignment any tour of duty begun by an officer before October 1, 1986, that involved significant experience in joint matters (as determined by the Secretary) if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) for his service to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986.".

(c) DEADLINE FOR INITIAL SELECTION OF OFFICERS FOR THE JOINT SPECIALTY.—Subsection (b)(3) of such section is amended by striking out "two years after the date of the enactment of this Act" and inserting in lieu thereof "on October 1, 1989".

SEC. 517. COUNTING OF OFFICERS WITH CRITICAL OCCUPATIONAL SPECIALTY INVOLVING COMBAT OPERATIONS FOR PURPOSES OF JOINT DUTY ASSIGNMENT STAFFING AND TOUR LENGTHS

(a) STAFFING.—Section 661(d)(4) of title 10, United States Code, is amended by striking out "one-third" and inserting in lieu thereof "25 percent".

(b) TOUR LENGTHS.—Section 664(e)(2) of such title is amended by striking out "10 percent" and inserting in lieu thereof "12½ percent".

SEC. 518. SERVICE BY CAPTAINS AND NAVY LIEUTENANTS IN JOINT DUTY ASSIGNMENT TO BE COUNTED FOR ALL OFFICER PERSONNEL LAWS CONCERNING SUCH SERVICE

Section 661 of title 10, United States Code, is amended by adding
102 STAT. 1972 at the end the following new subsection:

"(f) TREATMENT OF CERTAIN SERVICE.—Any service by an officer in the grade of captain or, in the case of the Navy, lieutenant in a joint duty assignment shall be considered to be service in a joint duty assignment for purposes of all laws (including section 619(e)(1) of this title) establishing a requirement or condition with respect to an officer's service in a joint duty assignment.".

SEC. 519. TECHNICAL AMENDMENTS

(a) AMENDMENTS RELATING TO JOINT DUTY ASSIGNMENTS.—(1) Section 154(b)(1)(B) of title 10, United States Code, is amended by striking out "served in at least one joint duty assignment (as defined under section 668(b) of this title)" and inserting in lieu thereof "completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)".

(2) Section 164(a)(1)(B) of such title is amended by striking out "served in at least one joint duty assignment (as defined under section 668(b) of this title)" and inserting in lieu thereof "completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)".

(3) Sections 3033(a)(2)(B), 5033(a)(2)(B), 5043(a)(2)(B), and 8033(a)(2)(B) of such title are amended by striking out "joint duty assignment" and inserting in lieu thereof "full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)".

(b) CORRECTION OF ERRONEOUS SUBSECTION DESIGNATION.—Section 668 of such title is amended by redesignating subsection (f) as subsection (c).

PART C—MISCELLANEOUS

SEC. 521. TESTING OF NEW ENTRANTS FOR DRUG AND ALCOHOL ABUSE

(a) REVISION OF MANDATORY TESTING PROGRAM.—(1) Section 978 of title 10, United States Code, is amended to read as follows:

"§ 978. Drug and alcohol abuse and dependency: testing of new entrants

"(a)(1) Except as provided in paragraph (2), the Secretary concerned shall require each member of the armed forces under the Secretary's jurisdiction, within 72 hours after the member's initial entry on active duty after enlistment or appointment, to—

"(A) undergo testing (by practicable, scientifically supported means) for drug and alcohol use; and

"(B) be evaluated for drug and alcohol dependency.

"(2) The Secretary concerned shall require an applicant for appointment as a cadet or midshipman to undergo the testing and evaluation described in paragraph (1) during the physical examination given the applicant before such appointment. The Secretary concerned shall require a person to whom a commission is offered under section 2106 of this title following completion of the program of advanced training under the Reserve Officers' Training Corps program to undergo such testing and evaluation during the precommissioning physical examination given such person.

"(b) A person who refuses to consent to testing and evaluation required by subsection (a) may not be retained in the armed forces, and any original appointment of such person as an officer shall be terminated, unless that person consents to such testing and evaluation.

"(c)(1) The enlistment or appointment of a person who is determined, as a result of an evaluation conducted under subsection (a)(1)(B), to be dependent on drugs or alcohol at the time of such enlistment or appointment shall be void.

"(2) A person whose enlistment or appointment is voided under paragraph (1) shall be referred to a civilian treatment facility.

"(d) The testing and evaluation required by subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense in consultation with the Secretary of Transportation. Those regulations shall apply uniformly throughout the armed forces. Regulations.

"(e) In time of war, or time of emergency declared by Congress or the President, the President may suspend the provisions of subsection (a).".

(2) The item relating to that section in the table of sections at the beginning of chapter 49 of such title is amended to read as follows:

"978. Drug and alcohol abuse and dependency: testing of new entrants.".

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the implementation of section 978 of title 10, United States Code, as amended by subsection (a), not later than 60 days after the date of the enactment of this Act. 10 USC 978 note.

(c) EFFECTIVE DATE.—The testing and evaluation program prescribed by that section shall be implemented not later than October 1, 1989. 10 USC 978 note.

(d) CONFORMING AMENDMENT.—Section 513(b)(2) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1091) is repealed. 10 USC 978 note.

SEC. 522. REQUIREMENT TO ACCEPT PERSONS ENLISTING IN THE AIR FORCE ON GENDER-FREE BASIS

(a) REQUIREMENT.—(1) Chapter 833 of title 10, United States Code, is amended by inserting after section 8251 the following new section:

"§ 8252. Regular Air Force: gender-free basis for acceptance of original enlistments

"(a) Except as provided in subsection (b), in accepting persons for original enlistment in the Regular Air Force, the Secretary of the Air Force may not—

"(1) set a minimum or maximum percentage of persons who may be accepted for such an enlistment according to gender for skill categories or jobs; or

"(2) in any other way base the acceptance of a person for such an enlistment on gender.

Women.

"(b) Subsection (a) shall not apply with respect to an enlistment specified as being for training leading to designation in a skill category involving duty assignments to which, under section 8549 of this title, female members of the Air Force may not be assigned.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8251 the following new item:

"8252. Regular Air Force: gender-free basis for acceptance of original enlistments.".

Effective date.
10 USC 8252 note.

(b) IMPLEMENTATION.—The Secretary of the Air Force shall develop a methodology for implementing section 8252 of title 10, United States Code, as added by subsection (a), not later than October 1, 1989.

102 STAT. 1974

10 USC 8252 note.

(c) EFFECTIVE DATE.—Such section shall apply with respect to persons accepted for original enlistment in the Regular Air Force after September 30, 1989.

(d) REPEAL OF FY 89 REQUIREMENT FOR SPECIFIED PERCENTAGE OF AIR FORCE ENLISTEES TO BE WOMEN.—Section 551(a) of the Department of Defense Authorization Act, 1985 (10 U.S.C. 8251 note), is repealed.

32 USC 709 note.

SEC. 523. MILITARY EDUCATION FOR ARMY NATIONAL GUARD CIVILIAN TECHNICIANS

(a) PHASE-OUT OF PROGRAM REQUIRING OUT-OF-STATE TRAINING.—A civilian technician of the Army National Guard whose military occupational specialty has been approved by the Secretary of the Army in accordance with subsection (b) for training under the Reserve Component Noncommissioned Officers Education Program by an appropriate National Guard school (as defined in subsection (f)) shall, if such technician is not already qualified in that military occupational specialty, receive military training in that military occupational specialty through that school rather than through the Military Education Program.

(b) APPROVAL OF STATE COURSES.—(1) Each National Guard school which receives from the Department of the Army a training program for National Guard training for a military occupational specialty as part of the Reserve Component Noncommissioned Officers Education Program shall implement that training program by the end of the 45-day period beginning on the receipt of such program by the school or as soon thereafter as feasible. The Secretary of the Army shall, not later than 45 days after any such school notifies the Secretary that it has implemented such a training program, determine whether or not such school has properly implemented such program. Upon the approval by the Secretary of the implementation of such program by such school, subsection (a) shall apply with respect to military education of civilian technicians of the Army National Guard of that State in the applicable military occupational specialty.

(2) In the case of a National Guard school for which a program has not been approved under paragraph (1) with respect to a military

occupational specialty, the Secretary of the Army may, subject to subsection (d), require a civilian technician of the Army National Guard in that State with that military occupational specialty to receive training through the Military Education Program.

(c) SPECIAL RULE FOR LEADERSHIP TRAINING.—A civilian technician of the Army National Guard who is required by the National Guard Bureau to receive leadership training through courses known as Primary Leadership Development courses shall receive such training through the appropriate State National Guard school.

(d) TRANSITION.—In the case of a civilian technician of the Army National Guard for whose military occupational specialty there is not, as of the date of the enactment of this Act, a program of training approved under subsection (b) for an appropriate National Guard school, the technician shall, at his request, be given the Skill Qualification Test appropriate for his military occupational specialty and skill level. If the technician passes the test and, if necessary for his military occupational specialty, successfully completes the Army National Guard Battle Skills Course for the appropriate grade, the Secretary of the Army may not require the technician to receive training through the existing Military Education Program and may not reduce the technician in military grade, or deny the technician a military promotion, by reason of failure to receive training through the Military Education Program. 102 STAT. 1975

(e) REPORT.—The Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation of the Reserve Component Noncommissioned Officers Education Program. The report shall discuss the implementation of such program at each State National Guard school and shall explain, in any case in which the implementation of a training program has not been approved under subsection (b), the reasons for the withholding of such approval. Such report shall be submitted not later than December 31, 1988.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "National Guard school", with respect to a civilian technician, means a National Guard school of that technician's State, or (2) a regional National Guard school designated by the Secretary of the Army for the region including that technician's State.

(2) The term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

SEC. 524. EXPANSION OF MILITARY SPOUSE EMPLOYMENT PREFERENCE

Section 806(b)(2) of the Military Family Act of 1985 (10 U.S.C. 113 note) is amended—

(1) by striking out "hiring" the first place it appears;

(2) by inserting "civilian" before "position" the first place it appears; and

(3) by striking out "above Grade GS–1 (or its equivalent)".

SEC. 525. MANPOWER ESTIMATES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

Section 2434 of title 10, United States Code, is amended—

(1) in subsection (a)(2), by striking out "90 days" and inserting in lieu thereof "30 days";

(2) by redesignating subsection (b) as subsection (c) and in paragraph (3)(A) of that subsection striking out "both in total personnel and" and inserting in lieu thereof "in total personnel or in"; and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) EXCEPTIONS.—(1) Subsection (a)(2) shall not apply during time of war or during a national emergency declared by Congress or the President.

"(2) The 30-day period specified in subsection (a)(2) shall be reduced to 10 days in the case of a major defense acquisition program if the manpower estimate submitted by the Secretary of Defense under subsection (a)(2) with respect to that program indicates that no increase in military or civilian personnel end strengths described in subsection (c)(3)(B) will be required.".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1989

37 USC 1009 note.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1989 shall not be made.

Effective date.

(b) INCREASE IN BASIC PAY AND BAS.—The rates of basic pay and basic allowance for subsistence of members of the uniformed services are increased by 4.1 percent effective on January 1, 1989.

Effective date.
37 USC 403 note.

(c) INCREASE IN BAQ.—(1) The rates of basic allowance for quarters for members of the uniformed services are increased by 7 percent effective on January 1, 1989.

(2) The President may allocate the increase in the rates of basic allowance for quarters provided in paragraph (1) among pay grades and dependency categories so that the resulting rates of basic allowance for quarters, expressed in the case of each such rate as a percentage determined under paragraph (3), are as nearly as practicable the same.

(3) The percentage of the rate of basic allowance for quarters for any pay grade and dependency status to be applied for the purpose of paragraph (2) is the percentage that results from dividing such rate by the national median cost of housing (as determined by the Secretary of Defense) for members of that pay grade and dependency status.

(4) An allocation under paragraph (2) may not reduce the rate of basic allowance for quarters for members in any pay grade and dependency status below the rate in effect with respect to such members on December 31, 1988.

(5) The Secretary of Defense may establish separate rates of basic allowance for quarters for commissioned officers credited with over four years of active service as enlisted members or warrant officers.

Effective date.

(d) INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective January 1, 1989, section 203(c)(1) of title 37, United States Code, is amended by striking out "$504.30" and inserting in lieu thereof "$525".

SEC. 602. ALLOWANCE FOR TRANSPORTATION OF HOUSEHOLD GOODS

(a) ALLOWANCE.—Section 406(b)(1) of title 37, United States Code, is amended—

(1) by striking out "within such weight allowances prescribed by the Secretaries concerned" in subparagraph (A) and inserting in lieu thereof "within the weight allowances listed in subparagraph (C)"; and

(2) by adding at the end the following new subparagraph:

Regulations.

"(C) Under regulations prescribed by the Secretary of Defense, the weight allowance to which a member is entitled under subparagraph (A) is determined in accordance with the following table:

"Pay Grade	Without Dependents	With Dependents
O–10 to O–6	18,000	18,000
O–5	16,000	17,500
O–4	14,000	17,000

"Pay Grade	Without Dependents	With Dependents
O-3	13,000	14,500
O-2	12,500	13,500
O-1	10,000	12,000
W-4	14,000	17,000
W-3	13,000	14,500
W-2	12,500	13,500
W-1	10,000	12,000
E-9	12,000	14,500
E-8	11,000	13,500
E-7	10,500	12,500
E-6	8,000	11,000
E-5	7,000	9,000
E-4 [1]	7,000	8,000
E-4 [2]	3,500	7,000
E-3	2,000	5,000
E-2	1,500	5,000
E-1	1,500	5,000

[1] Member with more than two years of service computed under section 205 of this title.
[2] Member with less than two years of service computed under section 205 of this title".

(b) EFFECTIVE DATE.—The weight allowances in section 406(b)(1)(C) of title 37, United States Code (as added by subsection (a)), shall apply with respect to transportation of baggage and household effects occurring after June 30, 1989.

37 USC 406 note.

PART B—SPECIAL PAY FOR CRITICAL PERSONNEL

SEC. 611. AVIATOR RETENTION BONUS

37 USC 301b note. Effective date. Termination date. Contracts.

(a) BONUS AUTHORIZED.—(1) An aviation officer described in subsection (b) who, during the period beginning on January 1, 1989, and ending on September 30, 1989, executes a written agreement to remain on active duty in aviation service for at least one year may, upon the acceptance of the written agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

(2) The amount of such bonus shall be not more than—

(A) $12,000 for each year covered by the agreement, if the officer agrees to remain on active duty to complete 14 years of commissioned service; or

(B) $6,000 for each year covered by the agreement, if the officer agrees to remain on active duty for one or two years.

(3) The term of the agreement and the amount of payment may be prorated as long as an agreement under this section does not extend beyond the date on which the officer would complete 14 years of commissioned service.

(4) Upon the officer's acceptance of the agreement, the total amount payable becomes fixed and may be paid in either a lump sum or in installments.

(b) COVERED OFFICERS.—(1) This section applies to an officer of a uniformed service who—

(A) is entitled to aviation career incentive pay under section 301a of title 37, United States Code;

(B) is in a pay grade below pay grade O-6;

(C) is qualified to perform operational flying duty;

(D) has completed at least six but less than 13 years of active duty;

(E) has completed any active duty service commitment incurred for undergraduate aviator training; and

(F) is in an aviation specialty designated by the Secretary concerned, and approved by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, as critical.

(2) For purposes of paragraph (1)(F), an aviation specialty shall be considered subject to designation as critical when there exists a current shortage of officers in that specialty.

(c) ADDITIONAL PAY.—A retention bonus under this section is in addition to any other pay and allowances to which an officer is entitled.

Contracts.

(d) REFUNDS.—(1) Refunds shall be required, on a pro rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty specified in the agreement, as conditions and circumstances warrant.

(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11, United States Code, after January 1, 1989.

Effective date.

(e) CERTAIN PAY AGREEMENTS PROHIBITED.—An agreement for special pay under section 301b of title 37, United States Code, may not be accepted by the Secretary of Defense after December 31, 1988.

(f) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretaries concerned and approved by the Secretary of Defense or the Secretary of Transportation, as appropriate.

(g) DEFINITIONS.—In this section:

(1) The term "aviation service" means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer).

(2) The term "aviation specialty" means a community of pilots or other designated aeronautical officers identified by type of aircraft or weapon system.

(3) The term "operational flying duty" has the meaning given such term by clause (6) of section 301a(a) of title 37, United States Code.

(4) The terms "grade", "member", "pay", "Secretary concerned", and "uniformed services" have the meanings given those terms by section 101 of title 37, United States Code.

(h) REPORTS.—(1) Not later than November 15, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in this section is to be used. The report shall include a description of the relative level of payments between officers with various amounts of aviation service by aviation specialty.

(2) Not later than December 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the retention of aviators in the Armed Forces. The report shall include, at a minimum, the following:

102 STAT. 1979

(A) An analysis of aviator requirements and inventories (current and projected) of the Armed Forces by grade and years of service, including a list of those aviators who are assigned to duty other than operational flying duty and a justification for such assignments.

(B) An analysis of current and projected aviator retention rates in the Armed Forces and of those current and projected retention rates actually needed to meet the requirements of the Armed Forces.

(C) Such recommendations as the Secretary considers appropriate regarding—

(i) the initial active duty service commitment of aviators;

(ii) the integration of the aviator career incentive pay under section 301a of title 37, United States Code, and the retention bonus under this section into a structure that more efficiently supports the retention requirements for aviators in the Armed Forces; and

(iii) changes in the aviator management policies of the Armed Forces that would eliminate the disincentives cited by aviators as retention detractors.

(D) Specific proposals for such legislation as the Secretary considers necessary to retain on active duty the aviators required to meet the needs of the Armed Forces.

(i) LIMITATION ON OBLIGATIONS.—The total amount of payments made to officers of the Air Force during fiscal year 1989 under this section may not exceed $36,200,000.

(j) TERMINATION OF AUTHORITY.—If both reports required by paragraphs (1) and (2) of subsection (h) are not received by the committees named in such paragraphs by the respective dates specified in such paragraphs, the authority to make payments under this section shall terminate effective December 2, 1988.

SEC. 612. MEDICAL OFFICER RETENTION BONUS

37 USC 302 note.

(a) BONUS AUTHORIZED.—(1) A medical officer described in subsection (b) who, during the period beginning on January 1, 1989, and ending on September 30, 1989, executes a written agreement to remain on active duty for at least two years after completion of any other active-duty service commitment may, upon acceptance of the written agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

Effective date.
Termination date.
Contracts.

(2) The amount of such retention bonus shall be not more than $20,000 for each year covered by the agreement.

(b) COVERED OFFICERS.—This section applies to an officer of a uniformed service who—

(1) is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer;

(2) is in a pay grade below pay grade 0–7;

(3) has at least eight years of creditable service (computed as described in section 302(g) of title 37, United States Code); and

(4) has completed any active-duty service commitment incurred for medical education and training (or will have completed any such commitment before October 1, 1991).

(c) LIMITATION ON TOTAL COMPENSATION.—The Secretary of Defense shall ensure that no officer receives pay under this section which, when added to all other pay and allowances such officer receives pursuant to titles 10 and 37, United States Code, results in such officer receiving total compensation in an amount that exceeds the total compensation paid to comparable physicians (considering age, education, experience, certification, training, and other appropriate criteria), as determined by the Secretary, who are civilian physicians employed in the private sector in employment other than self-employment. The Secretary shall target payments under this section to officers in categories in which the most severe shortages exist in the Department of Defense.

102 STAT. 1980

(d) ADMINISTRATION AND IMPLEMENTATION.—The provisions of subsections (a) and (b) of section 303a of title 37, United States Code, shall apply to the administration of this section as if a reference to this section were included in the list of sections referred to in such subsections.

(e) REFUNDS.—(1) Refunds shall be required, on a pro rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty specified in the agreement, as conditions and circumstances warrant.

Contracts.

(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11, United States Code, after January 1, 1989.

Effective date.

(f) DEFINITIONS.—In this section, the terms "grade", "member", "pay", "Secretary concerned", and "uniformed services" have the

meanings given those terms by section 101 of title 37, United States Code.

(g) REPORTS.—(1) Not later than November 15, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in this section is to be used. The report shall include a description of the relative level of payments between officers in various categories.

(2)(A) Not later than December 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the following:

(i) An analysis of current and projected requirements of the Armed Forces for health professionals by speciality and years of service, including a list of requirements for physicians who are assigned to duties other than duties consisting primarily of providing patient care and a justification for those requirements.

(ii) The Secretary's assessment of the adequacy of the existing compensation system for such health care professionals.

(iii) Such recommendations for legislation as the Secretary considers necessary to attract and retain on active duty the health care professionals needed to meet the needs of the Armed Forces.

(B) The Secretary shall include in his report a draft of legislation which, if enacted, would establish either—

(i) a compensation system which provides total compensation that is competitive with the compensation paid comparable health care professionals (considering age, education, experience, certification, training, and other appropriate criteria) who are health care professionals employed in the private sector in employment other than self-employment; or

102 STAT. 1981

(ii) a single military health care professional incentive compensation program (in lieu of special pay provided under chapter 5 of title 37, United States Code) which provides incentive compensation in sufficient amounts to ensure that the total amount of such compensation to which such health care professionals are entitled under the provisions of titles 10 and 37, United States Code, is competitive with the compensation paid comparable health care professionals (considering age, education, experience, certification, training, and other appropriate criteria) who are health care professionals employed in the private sector in employment other than self-employment.

(h) LIMITATION ON OBLIGATIONS.—The total amount of payments made during fiscal year 1989 under this section may not exceed $30,000,000.

(i) TERMINATION OF AUTHORITY.—If both reports required by paragraphs (1) and (2) of subsection (g) are not received by the committees named in such paragraphs by the respective dates specified in such paragraphs, the authority to make payments under this section shall terminate effective December 2, 1988.

37 USC 302 note.

SEC. 613. SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVE

Contracts.
Effective date.

(a) IN GENERAL.—(1) An officer of a reserve component of the Armed Forces described in paragraph (2) who executes a written agreement under which the officer agrees to serve in the Selected Reserve of an armed force for a period of not less than one year nor more than three years, beginning on the date the officer accepts the award of special pay under this section, may be paid special pay at an annual rate not to exceed $10,000.

(2) An officer referred to in paragraph (1) is an officer in a health care profession who is qualified in a specialty designated by regulations as a critically short wartime specialty.

(3) Special pay under this section shall be paid annually at the beginning of each twelve-month period for which the officer has agreed to serve.

(b) REFUND REQUIREMENT.—An officer who voluntarily terminates service in the Selected Reserve of an armed force before the end of the period for which a payment was made to such officer under this section shall refund to the United States the full amount of the payment made for the period on which the payment was based.

(c) INAPPLICABILITY OF DISCHARGE IN BANKRUPTCY.—A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the person receiving such special pay from the debt arising under the agreement. Contracts.

(d) TERMINATION OF AGREEMENT AUTHORITY.—No agreement under this section may be entered into after September 30, 1990.

(e) PURPOSE OF PROGRAM.—The authority provided under this section shall be used only for the purpose of establishing and conducting a pilot test program to determine the effect that the program provided for in this section has on the retention of officers who are qualified in specialties designated by regulation as critically short wartime specialties.

(f) REGULATIONS.—(1) This section shall be administered under regulations prescribed by the Secretary concerned and approved by the Secretary of Defense.

102 STAT. 1982

(2) As used in paragraph (1), the term "Secretary concerned" has the same meaning as provided in section 101(5) of title 37, United States Code.

(g) LIMITATIONS ON OBLIGATIONS.—The total amount of payments made during fiscal year 1989 as the result of agreements entered into under this section may not exceed $4,000,000.

(h) REPORT.—(1) Not later than September 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a description of the manner in which the pilot test program provided for in this section is to be structured, including the minimum periods of service to be required for various levels of special pay under this section.

(2) Not later than February 1, 1990, the Secretary also shall submit to such committees an evaluation of the effectiveness of the program and recommendations for its continuation or modification.

(i) EFFECTIVE DATE.—The authority to enter into agreements under this section shall take effect 30 days after the date on which the committees referred to in subsection (h)(1) receive the report required by such subsection. Contracts.

PART C—OTHER PERSONNEL BENEFITS

SEC. 621. HOUSING LEASE INDEMNITY PROGRAM

(a) IN GENERAL.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1055. Waiver of security deposits for members renting private housing; authority to indemnify landlord

"(a) The Secretary of Defense may carry out a program under which the Secretary of a military department agrees to indemnify a landlord who leases a rental unit to a member of the armed forces against a breach of the lease by the member or for damage to the rental unit caused by the member. In exchange for agreement for such indemnification by the Secretary, the landlord shall be required to waive any requirement for payment by the member of a security deposit that the landlord would otherwise require.

"(b)(1) For purposes of carrying out a program authorized by subsection (a), the Secretary of a military department, to the extent funds are provided in advance in appropriation Acts, may enter into

an agreement with any landlord who agrees to waive the requirement for a security deposit in connection with the lease of a rental unit to a member of the armed forces under the jurisdiction of the Secretary. An agreement under this paragraph shall provide that—

"(A) the term of the agreement shall remain in effect during the term of the member's lease and during any lease renewal periods with the lessor;

"(B) the member shall not pay a security deposit;

"(C) the Secretary (except as provided in subparagraphs (D) and (E)) shall compensate the landlord for breach of the lease by the member and for damage to the rental unit caused by the member or by a guest or dependent of the member;

"(D) the total liability of the Secretary for a breach of the lease or for damage described in subparagraph (C) may not exceed an amount equal to the amount that the Secretary determines would have been required by the landlord as a security deposit in the absence of an agreement authorized in this paragraph;

102 STAT. 1983

"(E) the Secretary may not compensate the landlord for any claim for breach of the lease or for damage described in subparagraph (C) until the landlord exhausts any remedies available to the landlord (including submission to binding arbitration by a panel composed of military personnel and persons from the private sector) against the member for the breach or damage; and

"(F) the Secretary shall be subrogated to the rights of the landlord in any case in which the Secretary compensates the landlord for breach of the lease or for damage described in subparagraph (C).

Regulations.

"(2) Any authority of the Secretary of a military department under this section shall be exercised under regulations prescribed by the Secretary of Defense.

"(c)(1) The Secretary of a military department who compensates a landlord under subsection (b) for a breach of a lease or for damage described in subsection (b)(1)(C) may issue a special order under section 1007 of title 37 to authorize the withholding from the pay of the member of an amount equal to the amount paid by the Secretary to the landlord as compensation for the breach or damage.

Records.

"(2) Before the Secretary of a military department issues a special order under section 1007 of title 37 to authorize the withholding of any amount from the pay of a member for a breach or damage referred to in paragraph (1), the Secretary concerned shall provide the member with the same notice and opportunity for hearing and record inspection as provided an individual under section 5514(a)(2) of title 5. The Secretary concerned shall prescribe regulations, subject to the approval of the President, to carry out this paragraph. Such regulations shall be as uniform for the military departments as practicable.

Regulations.

"(d) In this section, the term 'landlord' means a person who leases a rental unit to a member of the armed forces.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1055. Waiver of security deposits for members renting private housing; authority to indemnify landlord.".

10 USC 1055 note.

(b) EFFECTIVE DATE.—Section 1055 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1988.

SEC. 622. RETIRED PAY INVERSIONS RESULTING FROM COURT-MARTIAL PUNISHMENT

(a) IN GENERAL.—Section 1401a(f) of title 10, United States Code, is amended by inserting after the second sentence the following: "However, in the case of a member who, after initially becoming eligible for retired pay, is reduced in grade pursuant to a sentence of a court-

martial, such computation may not be based on a grade higher than the grade in which the member is retired.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month that begins after the date of the enactment of this Act and shall apply to the computation of the retired or retainer pay of members who initially become entitled to such pay on or after such effective date. 10 USC 1401a note.

SEC. 623. TRAVEL AND TRANSPORTATION ALLOWANCES FOR EMERGENCY TRAVEL

(a) IN GENERAL.—Section 411e(a) of title 37, United States Code, is amended by striking out "incident to the serious illness or injury or the death of a dependent of the member" and inserting in lieu thereof "incident to a personal emergency of the member".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to travel performed after September 30, 1988. 37 USC 411e note.

SEC. 624. TRAVEL AND TRANSPORTATION ALLOWANCES INCIDENT TO VOLUNTARY EXTENSION OF OVERSEAS TOURS OF DUTY

(a) CHANGE FROM MANDATORY TO PERMISSIVE.—Section 411g(a) of title 37, United States Code, is amended by striking out "is entitled" and inserting in lieu thereof "may be paid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to agreements to extend overseas tours of duty made on and after the date of the enactment of this Act. 37 USC 411g note.

SEC. 625. CIVILIAN CLOTHING ALLOWANCE

Section 419 of title 37, United States Code, is amended—

(1) by striking out "member" each place it appears and inserting in lieu thereof "officer";

(2) by striking out "is entitled" and inserting in lieu thereof "may be paid"; and

(3) by striking out "member's" and inserting in lieu thereof "officer's".

PART D—BENEFITS RELATING TO INCAPACITATION OF CERTAIN RESERVE MEMBERS IN LINE OF DUTY

SEC. 631. COMPENSATION FOR CERTAIN RESERVE MEMBERS

(a) AUTHORIZATION OF COMPENSATION.—Subsections (g) and (h) of section 204 of title 37, United States Code, are amended to read as follows:

"(g)(1) A member of a reserve component of a uniformed service is entitled to the pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service whenever such member is physically disabled as the result of an injury, illness, or disease incurred or aggravated—

"(A) in line of duty while performing active duty;

"(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service); or

"(C) while traveling directly to or from such duty or training.

"(2) In the case of a member who receives earned income from nonmilitary employment or self-employment performed in any month in which the member is otherwise entitled to pay and allowances under paragraph (1), the total pay and allowances shall be reduced by the amount of such income. In calculating earned income for the purpose of the preceding sentence, income from an income protection plan, vacation pay, or sick leave which the member elects to receive shall be considered.

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"(h)(1) A member of a reserve component of a uniformed service who is physically able to perform his military duties, is entitled, upon request, to a portion of the monthly pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for each month for which the member demonstrates a loss of earned income from nonmilitary employment or self-employment as a result of an injury, illness, or disease incurred or aggravated—

"(A) in line of duty while performing active duty;

"(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service); or

"(C) while traveling directly to or from such duty or training.

"(2) The monthly entitlement may not exceed the member's demonstrated loss of earned income from nonmilitary or self-employment. In calculating such loss of income, income from an income protection plan, vacation pay, or sick leave which the member elects to receive shall be considered.".

(b) LIMIT ON TOTAL COMPENSATION.—Such section is further amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection (i):

"(i)(1) The total amount of pay and allowances paid under subsections (g) and (h) and compensation paid under section 206(a) of this title for any period may not exceed the amount of pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for that period.

"(2) Pay and allowances may not be paid under subsection (g) or (h) for a period of more than six months. The Secretary concerned may extend such period in any case if the Secretary determines that it is in the interests of fairness and equity to do so.

"(3) A member is not entitled to benefits under subsection (g) or (h) if the injury, illness, disease, or aggravation of an injury, illness, or disease is the result of the gross negligence or misconduct of the member.

Regulations.

"(4) Regulations with respect to procedures for paying pay and allowances under subsections (g) and (h) shall be prescribed—

"(A) by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary; and

"(B) by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

(c) CONFORMING AMENDMENT FOR INACTIVE-DUTY TRAINING.—Section 206(a) of such title is amended by striking out "for a period of 30 days or less" in paragraph (3)(A)(i).

37 USC 206.

37 USC 204 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to persons who, after the date of enactment of this Act, incur or aggravate an injury, illness, or disease, or who die as the result of incurring or aggravating an injury, illness, or disease.

SEC. 632. TRAVEL FOR DEPENDENTS OF CERTAIN MEMBERS

(a) TRAVEL AUTHORIZED.—Paragraph (2) of section 411h(a) of title 37, United States Code, is amended to read as follows:

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"(2) A member referred to in paragraph (1) is a member of the uniformed services who—

"(A) is serving on active duty or is entitled to pay and allowances under section 204(g) of this title (or would be so entitled were it not for offsetting earned income described in that section);

"(B) is seriously ill or seriously injured; and

"(C) is hospitalized in a medical facility in or outside the United States.".

(b) TRAVEL TO BURIAL CEREMONIES.—Section 411f(a) of such title is amended by striking out "for a period of 30 days or more in order to" and inserting in lieu thereof "or inactive duty in order that such dependents may". 37 USC 411.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1988. 37 USC 411f note.

SEC. 633. INJURY, DISABILITY, AND DEATH COMPENSATION COVERAGE FOR ROTC CADETS DURING MILITARY TRAINING ACTIVITIES

(a) AUTHORITY TO PRESCRIBE TRAINING.—(1) Subsection (a) of section 2109 of title 10, United States Code, is amended to read as follows:

"(a) For the further practical instruction of members of, and designated applicants for membership in, the program, the Secretary of the military department concerned may prescribe and conduct practical military training, in addition to field training and practice cruises prescribed under section 2104(b)(6) of this title. The Secretary concerned may require that some or all of the training prescribed under this subsection must be completed by a member before the member is commissioned.".

(2) Subsection (b) of such section is amended—

(A) by striking out "may—" and inserting in lieu thereof ", with respect to practical military training prescribed under this section and field training and practice cruises prescribed under section 2104(b)(6) of this title, may—"; and

(B) by striking out "field training" each place it appears and inserting in lieu thereof "such training".

(3)(A) The heading of such section is amended to read as follows:

"§ 2109. Practical military training".

(B) The item relating to such section in the table of sections at the beginning of chapter 103 of such title is amended to read as follows:

"2109. Practical military training.".

(b) COVERAGE FOR INJURY, DISABILITY, AND DEATH.—Section 8140 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "disability or death from an injury" and inserting in lieu thereof "an injury, disability, or death"; and

(B) by striking out "field" before "training";

(2) in subsection (f), by striking out "while attending field training or a practice cruise under chapter 103 of title 10" and inserting in lieu thereof "by a military department in a facility of a military department"; and

(3) by adding at the end thereof the following new subsection:

"(g) For purposes of this section, the term 'applicant for membership' includes a student enrolled, during a semester or other enrollment term, in a course which is part of Reserve Officers' Training Corps instruction at an educational institution.". 102 STAT. 1987

(c) TRAINING INCLUDED WITHIN CERTAIN DEFINITIONS.—(1) Paragraph (22)(D) of section 101 of title 38, United States Code, is amended—

(A) by striking out "field"; and

(B) by inserting "for a period of not less than four weeks and which must be completed by the member before the member is commissioned" after "title 10".

(2) Paragraph (23) of such section is amended—

(A) by striking out "and" at the end of clause (A);

(B) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(C) by inserting after clause (B) the following new clause:

"(C) training (other than active duty for training) by a member of, or applicant for membership (as defined in section 8140(g) of title 5) in, the Senior Reserve Officers' Training Corps prescribed under chapter 103 of title 10.".

(d) PAY STATUS WHILE IN CERTAIN TRAINING.—Section 209(c) of title 37, United States Code, is amended by striking out "field training or practice cruises under section 2109 of title 10" and inserting in lieu thereof "training or practice cruises under chapter 103 of title 10 if the training or cruise is of at least four weeks duration and must be completed before the cadet or midshipman is commissioned.".

10 USC 2109 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to training performed after September 30, 1988.

PART E—HEALTH CARE MANAGEMENT PROVISIONS

SEC. 641. REQUIREMENT TO SUBMIT END STRENGTHS AND MANPOWER REPORT FOR MEDICAL PERSONNEL

(a) END STRENGTH REQUIREMENT.—Section 115(b)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(D) At the same time the President submits the budget for any fiscal year to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to Congress recommendations for the end strength levels for medical personnel for each component of the armed forces as of the end of that fiscal year. For purposes of this subparagraph, the term 'medical personnel' includes—

"(i) in the Army, members of the Medical Corps, Dental Corps, Nurse Corps, Medical Service Corps, Veterinary Corps, and Army Medical Specialist Corps;

"(ii) in the Air Force, members designated as medical officers, dental officers, Air Force nurses, medical service officers, and biomedical science officers;

"(iii) in the Navy, members of the Medical Corps, Dental Corps, Nurse Corps, and Medical Service Corps;

"(iv) enlisted personnel engaged in or supporting medically-related activities; and

"(v) such other personnel as the Secretary considers appropriate.".

(b) MANPOWER REPORT REQUIREMENT.—Section 115(b)(3)(B) of such title is amended—

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(1) by striking out "and" at the end of clause (ii);

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(iv) the manpower required to perform the medical missions of the armed forces and the Department of Defense.".

SEC. 642. REQUIREMENTS WITH RESPECT TO CERTAIN NAVY MEDICAL PERSONNEL

Of the amount appropriated for operation and maintenance for the Navy for fiscal year 1989, $15,000,000 shall be available only for the pay and allowances of those civilian employees of the Navy—

(1) hired after September 30, 1988, to perform duties in support of Navy medical treatment facilities; and

(2) only to the extent that the number of such employees hired after that date results in a greater number of such employees performing those duties for the Navy than were performing those duties for the Navy on September 30, 1988.

SEC. 643. PROVISIONS RELATING TO NAVY HEALTH PROFESSION PERSONNEL

(a) REPEAL.—Section 723 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1116) is repealed.

(b) MINIMUM REQUIREMENTS.—(1) Of the total number of officers authorized to be serving on active duty in the Navy as of September 30, 1989, under section 401(2), 11,940 shall be available only for assignment to duties in health profession specialties.

(2) Of the total number of officers authorized to be serving on active duty in the Navy as of September 30, 1990, 12,240 shall be available only for assignment to duties in health profession specialties.

(3) Of the total number of officers authorized to be serving on active duty in the Navy as of September 30, 1991, 12,510 shall be available only for assignment to duties in health profession specialties.

SEC. 644. SHARING OF HEALTH-CARE RESOURCES BETWEEN THE DEPARTMENT OF DEFENSE AND THE VETERANS' ADMINISTRATION

Of the total amount appropriated for operation and maintenance for the Department of Defense for fiscal year 1989, $20,000,000 shall be available only for sharing health-care resources between the Department of Defense and the Veterans' Administration under section 5011 of title 38, United States Code, or under section 1535 of title 31, United States Code.

SEC. 645. EXTENSION OF TERMINATION DATE FOR FORMER PUBLIC HEALTH SERVICE HOSPITALS AND REQUIREMENT THAT SUCH HOSPITALS BE COST EFFECTIVE

Section 1252(e) of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d(e)), is amended—

(1) by striking out "1988" in the first sentence and inserting in lieu thereof "1990";

(2) by striking out "which identifies" in the second sentence and all that follows through the end of that sentence and inserting in lieu thereof the following: "which (1) identifies the facility whose status is being terminated, (2) specifies the date on which such status is being terminated, and (3) certifies that more cost-effective medical and dental care for members and former members of the uniformed services or their dependents is available elsewhere in the same geographic area."; and

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(3) by inserting after the third sentence the following: "Each such copy of the order shall include a copy of the certification required in clause (3) of the second sentence of this subsection and shall contain cost data substantiating the termination decision and identifying how more cost-effective care could be provided to the affected individuals.".

SEC. 646. ELIGIBILITY OF CERTAIN INSTITUTIONS TO RECEIVE REIMBURSEMENT UNDER CHAMPUS

(a) ACTIVE-DUTY DEPENDENTS.—(1) Section 1079(b) of title 10, United States Code, is amended by adding at the end of paragraph (1) the following: "The Secretary of Defense may exempt a patient from paying such amount if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.".

(2) Section 1079 of such title is further amended by adding at the end the following new subsection:

Claims.

"(m)(1) Subject to paragraph (2), the Secretary of Defense may, upon request, make payments under this section for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) to a hospital that does not impose a legal obligation on any of its patients to pay for such services.

"(2) A payment under paragraph (1) may not exceed the average amount paid for comparable services in the geographic area in which the hospital is located or, if no comparable services are available in that area, in an area similar to the area in which the hospital is located.

"(3) The Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this subsection to ensure that the hospital's practices of not billing patients for payment are not resulting in increased costs to the Government.

"(4) The Secretary of Defense may require each hospital the Secretary approves for payment under this subsection to provide evidence that it has sources of revenue to cover unbilled costs.".

(b) RETIREES AND THEIR DEPENDENTS.—(1) Section 1086(b) of title 10, United States Code, is amended in paragraph (3) by adding at the end the following: "The Secretary of Defense may exempt a patient from paying such charges if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.".

(2) Section 1086 of such title is further amended by adding at the end the following new subsection:

Claims.

"(h)(1) Subject to paragraph (2), the Secretary of Defense may, upon request, make payments under this section for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) to a hospital that does not impose a legal obligation on any of its patients to pay for such services.

"(2) A payment under paragraph (1) may not exceed the average amount paid for comparable services in the geographic area in which the hospital is located or, if no comparable services are available in that area, in an area similar to the area in which the hospital is located.

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"(3) The Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this subsection to ensure that the hospital's practices of not billing patients for payment are not resulting in increased costs to the Government.

"(4) The Secretary of Defense may require each hospital the Secretary approves for payment under this subsection to provide evidence that it has sources of revenue to cover unbilled costs.".

10 USC 1079 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to medical care received after September 30, 1988.

PART F—MISCELLANEOUS

SEC. 651. LIMITED EXTENSION OF CERTAIN MEDICAL BENEFITS FOR FORMER SPOUSES

(a) MEDICAL COVERAGE.—Section 1076 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) A person described in paragraph (2) shall be considered a dependent for purposes of this section for a period of one year after the date of the person's final decree of divorce, dissolution, or annulment. In addition, if such a person purchases a conversion health policy within the one-year period referred to in the preceding sentence, such person shall be entitled, upon request, to medical and dental care prescribed by section 1077 of this title for a period of one year after the purchase of the policy for any condition of the person that existed on the date on which coverage under the policy begins and for which care is not provided under that policy.

"(2) A person referred to in paragraph (1) is a person who would qualify as a dependent under section 1072(2)(G) but for the fact that the person's final decree of divorce, dissolution, or annulment is dated on or after April 1, 1985.

"(3) In this subsection, the term 'conversion health policy' means a health insurance plan with a private insurer, developed through negotiations between the Secretary of Defense and a private insurer, that is available for purchase by or for the use of persons described in paragraph (2).".

Effective date.

(b) CONFORMING AMENDMENT.—Section 645(c) of the Department of Defense Authorization Act, 1985 (10 U.S.C. 1072 note) is repealed effective as of the effective date of section 1076(f) of title 10, United States Code (as added by subsection (a)).

10 USC 1076 note.

(c) TRANSITION.—Any person who qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985, as in effect before its repeal by subsection (b), shall remain qualified

as a dependent as specified in that section and shall become eligible for benefits in accordance with section 1076(f) of title 10, United States Code (as added by subsection (a)), when no longer qualified as a dependent pursuant to such section 645(c).

(d) EFFECTIVE DATE.—Section 1076(f) of title 10, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act or 30 days after the Secretary of Defense first makes available a conversion health policy (as defined in such section), whichever is later. Such section shall apply to persons whose decree of divorce, dissolution, or annulment becomes final after the date of the enactment of this Act. 10 USC 1076 note.

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SEC. 652. TECHNICAL CORRECTION TO SURVIVOR BENEFIT PLAN COVERAGE OF FORMER SPOUSES

(a) INCLUSION OF FORMER SPOUSES IN SAVINGS PROVISION.—Section 1451(e)(1) of title 10, United States Code, is amended—

(1) by striking out "widow or widower" in subparagraph (A) and inserting in lieu thereof "widow, widower, or former spouse"; and

(2) by inserting "or former spouse" in subparagraph (B) after "A spouse".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments under the Survivor Benefit Plan established under subchapter II of chapter 73 of title 10, United States Code, for periods after February 28, 1986. 10 USC 1451 note.

SEC. 653. ANNUITY FOR CERTAIN SURVIVING SPOUSES 10 USC 1448 note.

(a) ANNUITY.—(1) The Secretary concerned shall pay an annuity to the qualified surviving spouse of each member of the uniformed services who—

(A) died before November 1, 1953; and

(B) was entitled to retired or retainer pay on the date of death.

(2) A qualified surviving spouse for purposes of this section is a surviving spouse who has not remarried and who is eligible for an annuity under section 4 of Public Law 92-425 (10 U.S.C. 1448 note).

(b) AMOUNT OF ANNUITY.—(1) An annuity payable under this section shall be paid at the rate of $165 per month, as adjusted from time to time under subsection (c).

(2) An annuity paid to a surviving spouse under this section shall be reduced by the amount of dependency and indemnity compensation (DIC) to which the surviving spouse is entitled under section 411(a) of title 38, United States Code.

(c) COST-OF-LIVING INCREASES.—Whenever retired or retainer pay is increased under section 1401a(b)(2) of title 10, United States Code, each annuity that is payable under this section shall be increased at the same time and by the same total percent. The amount of the increase shall be based on the monthly annuity payable before any reduction under this section.

(d) RELATIONSHIP TO OTHER PROGRAMS.—An annuity paid to a surviving spouse under this section is in addition to any pension to which the surviving spouse is entitled under subchapter III of chapter 15 of title 38, United States Code, or section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 (38 U.S.C. 521 note), and any payment made under the provisions of section 4 of Public Law 92-425. An annuity paid under this section shall not be considered as income for the purposes of eligibility for any such pension.

(e) DEFINITIONS.—For purposes of this section:

(1) The terms "uniformed services" and "Secretary concerned" have the meanings given those terms in section 101 of title 37, United States Code.

(2) The term "surviving spouse" has the meaning given the terms "widow" and "widower" in paragraphs (3) and (4), respectively, of section 1447 of title 10, United States Code.

(f) EFFECTIVE DATE.—Annuities under this section shall be paid for months beginning after the month in which this Act is enacted. No

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benefit shall accrue to any person by reason of the enactment of this section for any period before the first month referred to in the preceding sentence. No benefit shall be paid to any person under this section unless an application for such benefit has been filed with the Secretary concerned by or on behalf of such person.

SEC. 654. REPORT ON DEFINITION OF DEPENDENT FOR CERTAIN PURPOSES

(a) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the desirability of providing in law a more uniform and consistent definition of the term "dependent" for the purpose of determining the eligibility of a person, based upon the relationship of such person to a member or former member of the uniformed services, for various rights and benefits provided by law, including the following:

(1) Pay and allowances under title 37, United States Code.

(2) Rights and benefits (including eligibility for travel and commissary store privileges) under chapters 53 and 54 of title 10, United States Code.

(3) Medical and dental care under chapter 55 of title 10, United States Code.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required by subsection (a) not later than March 15, 1989, together with such comments and recommendations for legislation as he considers appropriate.

TITLE VII—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

PART A—ORGANIZATION

SEC. 701. AUTHORITY TO ESTABLISH POSITION OF ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE

Paragraph (3) of section 136(b) of title 10, United States Code, is amended to read as follows:

"(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.

"(B) Notwithstanding subparagraph (A), one of the Assistant Secretaries established by the Secretary of Defense may be an Assistant Secretary of Defense for Intelligence, who shall have as his principal duty the overall supervision of intelligence affairs of the Department of Defense.

"(C) If the Secretary of Defense establishes an Assistant Secretary of Defense for Intelligence, the Assistant Secretary provided for under subparagraph (A) shall be the Assistant Secretary of Defense for Command, Control, and Communications and shall have as his principal duty the overall supervision of command, control, and communications affairs of the Department of Defense.".

SEC. 702. DESIGNATION IN EACH MILITARY DEPARTMENT OF ASSISTANT SECRETARY WITH RESPONSIBILITY FOR FINANCIAL MANAGEMENT

(a) DEPARTMENT OF THE ARMY.—(1) Section 3016(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

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"(4) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Financial Management. The Assistant Secretary shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Army, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Army and shall advise the Secretary of the Army on financial management.".

(2) Chapter 303 of such title is amended by adding at the end the following new section:

"§ 3022. Financial management 10 USC 3022.

"(a) The Secretary of the Army shall provide that the Assistant Secretary of the Army for Financial Management shall direct and manage financial management activities and operations of the Department of the Army, including ensuring that financial management systems of the Department of the Army comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

"(1) supervise and direct the preparation of budget estimates of the Department of the Army and otherwise carry out, with respect to the Department of the Army, the functions specified for the Comptroller of the Department of Defense in section 137(c) of this title;

"(2) approve and supervise any project to design or enhance a financial management system for the Department of the Army; and

"(3) approve the establishment and supervise the operation of any asset management system of the Department of the Army, including—

"(A) systems for cash management, credit management, and debt collection; and

"(B) systems for the accounting for the quantity, location, and cost of property and inventory.

"(b)(1) Financial management systems of the Department of the Army (including accounting systems, internal control systems, and financial reporting systems) shall be established and maintained in conformance with—

"(A) the accounting and financial reporting principles, standards, and requirements established by the Comptroller General under section 3511 of title 31; and

"(B) the internal control standards established by the Comptroller General under section 3512 of title 31.

"(2) Such systems shall provide for—

"(A) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of department management;

"(B) the development and reporting of cost information;

"(C) the integration of accounting and budgeting information; and

"(D) the systematic measurement of performance.

"(c) The Assistant Secretary shall maintain a five-year plan describing the activities the Department of the Army propcses to conduct over the next five fiscal years to improve financial management. Such plan shall be revised annually.

"(d) The Assistant Secretary of the Army for Financial Management shall transmit to the Secretary of the Army a report each year on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Army financial management.". Reports.

(3) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3022. Financial management.".

(b) DEPARTMENT OF THE NAVY.—Section 5016(b) of such title is amended by adding at the end the following new paragraph: 10 USC 5016.

"(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Financial Management. The Assistant Secretary shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Navy, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Navy and shall advise the Secretary of the Navy on financial management.".

(2) Chapter 503 of such title is amended by adding at the end the following new section:

10 USC 5025.

"§ 5025. Financial management

"(a) The Secretary of the Navy shall provide that the Assistant Secretary of the Navy for Financial Management shall direct and manage financial management activities and operations of the Department of the Navy, including ensuring that financial management systems of the Department of the Navy comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

"(1) supervise and direct the preparation of budget estimates of the Department of the Navy and otherwise carry out, with respect to the Department of the Navy, the functions specified for the Comptroller of the Department of Defense in section 137(c) of this title;

"(2) approve and supervise any project to design or enhance a financial management system for the Department of the Navy; and

"(3) approve the establishment and supervise the operation of any asset management system of the Department of the Navy, including—

"(A) systems for cash management, credit management, and debt collection; and

"(B) systems for the accounting for the quantity, location, and cost of property and inventory.

"(b)(1) Financial management systems of the Department of the Navy (including accounting systems, internal control systems, and financial reporting systems) shall be established and maintained in conformance with—

"(A) the accounting and financial reporting principles, standards, and requirements established by the Comptroller General under section 3511 of title 31; and

"(B) the internal control standards established by the Comptroller General under section 3512 of title 31.

"(2) Such systems shall provide for—

"(A) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of department management;

"(B) the development and reporting of cost information;

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"(C) the integration of accounting and budgeting information; and

"(D) the systematic measurement of performance.

"(c) The Assistant Secretary shall maintain a five-year plan describing the activities the Department of the Navy proposes to conduct over the next five fiscal years to improve financial management. Such plan shall be revised annually.

Reports.

"(d) The Assistant Secretary of the Navy for Financial Management shall transmit to the Secretary of the Navy a report each year on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Navy financial management.".

(3) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5025. Financial management.".

10 USC 8016.

(c) DEPARTMENT OF THE AIR FORCE.—Section 8016(b) of such title is amended by adding at the end the following new paragraph:

"(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Financial Management. The Assistant Secretary shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Air Force, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Air Force and shall advise the Secretary of the Air Force on financial management.".

(2) Chapter 803 of such title is amended by adding at the end the following new section:

"§ 8022. Financial management

10 USC 8022.

"(a) The Secretary of the Air Force shall provide that the Assistant Secretary of the Air Force for Financial Management shall direct and manage financial management activities and operations of the Department of the Air Force, including ensuring that financial management systems of the Department of the Air Force comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

"(1) supervise and direct the preparation of budget estimates of the Department of the Air Force and otherwise carry out, with respect to the Department of the Air Force, the functions specified for the Comptroller of the Department of Defense in section 137(c) of this title;

"(2) approve and supervise any project to design or enhance a financial management system for the Department of the Air Force; and

"(3) approve the establishment and supervise the operation of any asset management system of the Department of the Air Force, including—

"(A) systems for cash management, credit management, and debt collection; and

"(B) systems for the accounting for the quantity, location, and cost of property and inventory.

"(b)(1) Financial management systems of the Department of the Air Force (including accounting systems, internal control systems, and financial reporting systems) shall be established and maintained in conformance with—

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"(A) the accounting and financial reporting principles, standards, and requirements established by the Comptroller General under section 3511 of title 31; and

"(B) the internal control standards established by the Comptroller General under section 3512 of title 31.

"(2) Such systems shall provide for—

"(A) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of department management;

"(B) the development and reporting of cost information;

"(C) the integration of accounting and budgeting information; and

"(D) the systematic measurement of performance.

"(c) The Assistant Secretary shall maintain a five-year plan describing the activities the Department of the Air Force proposes to conduct over the next five fiscal years to improve financial management. Such plan shall be revised annually.

"(d) The Assistant Secretary of the Air Force for Financial Management shall transmit to the Secretary of the Air Force a report each year on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Air Force financial management.".

Reports.

(3) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"8022. Financial management.".

(d) NUMBER OF ASSISTANT SECRETARIES IN THE DEPARTMENT OF THE AIR FORCE.—Section 8016(a) of such title is amended by striking out "three" and inserting in lieu thereof "four".

10 USC 8016.

(e) EFFECTIVE DATES.—(1) The amendments made by subsections (a) and (b) shall take effect on January 20, 1989.

10 USC 3016 note.

(2) The amendments made by subsections (c) and (d) shall take effect on July 1, 1989, except that such amendments shall take effect on such earlier date, but not before January 21, 1989, as may be prescribed by the President in advance by Executive order.

10 USC 8016 note.

SEC. 703. GENERAL COUNSELS OF MILITARY DEPARTMENTS

(a) REQUIREMENT FOR ADVICE AND CONSENT OF SENATE.—Sections 3019, 5019, and 8019 of title 10, United States Code, are each amended by inserting ", by and with the advice and consent of the Senate" after "President".

5 USC 5316 note.

(b) PAY GRADE.—Notwithstanding section 5316 of title 5, United States Code, the General Counsel of each of the military departments shall be paid at the highest rate of basic pay payable under section 5382 of title 5, United States Code, to a member of the Senior Executive Service.

10 USC 3019 note.

(c) APPLICABILITY.—The amendments made by this section shall apply to appointments made under sections 3019, 5019, and 8019, respectively, of title 10, United States Code, on and after the date of the enactment of this Act.

10 USC 1251 note.

SEC. 704. DEFERRAL OF RETIREMENT DATE FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Notwithstanding the limitation contained in the first sentence of subsection (b) of section 1251 of title 10, United States Code, the President may defer until October 1, 1989, the retirement of the officer serving as Chairman of the Joint Chiefs of Staff for the term which began on October 1, 1987.

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PART B—FORCE STRUCTURE

SEC. 711. ASSIGNMENT OF COMBATANT FORCES

Section 162(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "or to the United States element of the North American Air Defense Command" in the first sentence after "combatant commands";

(2) in paragraph (2), by inserting "or to the United States element of the North American Air Defense Command" after "combatant commands"; and

(3) in paragraph (3), by inserting "or to the United States element of the North American Air Defense Command" after "combatant command".

SEC. 712. RESPONSIBILITY AND AUTHORITY OF COMMANDER OF SPECIAL OPERATIONS COMMAND

Section 167(e) of title 10, United States Code, is amended—

(1) by striking out "activities, including the following functions:" and inserting in lieu thereof "activities.

"(2) The commander of such command shall be responsible for, and shall have the authority to conduct, the following functions relating to special operations activities (whether or not relating to the special operations command):";

(2) by striking out subparagraphs (F) and (G);

(3) by redesignating subparagraphs (B) through (E) as subparagraphs (D) through (G), respectively;

(4) by inserting after subparagraph (A) the following new subparagraphs:

"(B) Preparing and submitting to the Secretary of Defense program recommendations and budget proposals for special operations forces and for other forces assigned to the special operations command.

"(C) Exercising authority, direction, and control over the expenditure of funds—

"(i) for forces assigned to the special operations command; and

"(ii) for special operations forces assigned to unified combatant commands other than the special operations command, with respect to all matters covered by paragraph (4) and, with respect to a matter not covered by paragraph (4), to the extent directed by the Secretary of Defense.";

(5) by striking out paragraph (2) (as in effect immediately before the enactment of this Act) and inserting in lieu thereof the following:

"(3) The commander of the special operations command shall be responsible for—

"(A) ensuring the combat readiness of forces assigned to the special operations command; and

"(B) monitoring the preparedness to carry out assigned missions of special operations forces assigned to unified combatant commands other than the special operations command.

"(4)(A) The commander of the special operations command shall be responsible for, and shall have the authority to conduct, the following:

"(i) Development and acquisition of special operations-peculiar equipment.

"(ii) Acquisition of special operations-peculiar material, supplies, and services.";

(6) by striking out "(3) Subject to" and inserting in lieu thereof "(B) Subject to";

(7) by striking out "paragraph (1)(G)" and inserting in lieu thereof "subparagraph (A)"; and

(8) by designating the sentence beginning "The staff of the commander" as subparagraph (C).

SEC. 713. STRATEGIC AIR DEFENSE ALERT MISSION

(a) LIMITATION.—Except as provided in subsection (b)(2), the Secretary of the Air Force may not make any change in the alert status of any Air National Guard unit in the strategic air defense mission in the northern portion of the United States, or in the deployment of units assigned to that mission, from that status and deployment as in effect on April 10, 1988. National Guard.

(b) REPORT.—(1) After the North Warning System and the Over-the-Horizon Backscatter Radar System are deployed and in operation as replacements for the Distant Early Warning (DEW line) system, the Secretary of Defense, acting through the Chairman of the Joint Chiefs of Staff, shall submit to Congress a report on those systems. The report shall—

(A) describe the implementation of those systems and their operational capability and effectiveness as demonstrated up to the time of the report;

(B) describe plans, in light of those new systems, for the forward deployment of the interceptor aircraft from United States bases during periods of heightened international tension; and

(C) clarify the alert status in the strategic air defense mission, under those new systems, of elements of the Air Force (including elements of the reserve components) at Air Force bases in the northern portions of the United States.

(2) The limitation in subsection (a) shall cease to apply 180 days after the date on which Congress receives the report required by paragraph (1). Termination date.

(c) INTERIM REPORT.—Not later than February 1, 1989, the Secretary of Defense, acting through the Chairman of the Joint Chiefs of Staff, shall submit to Congress a report setting forth in detail each of the following:

(1) A description of the radar surveillance system and the alert and non-alert interceptor aircraft which will be available during each of fiscal years 1989, 1990, and 1991 along the northern border of the United States to carry out the strategic air defense mission.

(2) A description of the specific contributions to the strategic air defense mission expected to be made by the units identified in subsection (a) during each of those fiscal years.

(3) A specific recommendation as to whether the limitation in subsection (b) should be renewed and made permanent after fiscal year 1989.

102 STAT. 1999

SEC. 714. REPORTS ON BUDGETS FOR UNIFIED AND SPECIFIED COMMANDS

(a) REPORTS BY COMMANDERS OF COMBATANT COMMANDS.—(1) The commander of each of the unified and specified commands shall, not later than April 1, 1989, prepare an independent report on the implementation of the resource allocation provisions of title 10, United States Code, enacted by the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433) that are specified in paragraph (2) and any other resource allocation provision enacted by that Act which the commander concerned considers appropriate.

(2) The sections of title 10, United States Code, referred to in paragraph (1) are the following:

(A) Section 153(a)(4) (A), (B), (C), and (D), relating to advice on requirements, programs, and budget.

(B) Section 163(b)(2), relating to the role of the Chairman as spokesman for the commanders of the unified and specified combatant commands.

(C) Section 166, relating to budget proposals for such commands.

(b) MATTERS TO BE INCLUDED.—Each report required by subsection (a) shall address the following matters:

(1) The status of implementation of each of the provisions referred to in subsection (a)(2) and any other related resource allocation provisions.

(2) For any provision referred to in subsection (a)(2) that is not fully implemented and for which the commander is responsible or shares responsibility, the date estimated by the commander concerned for final implementation of such provisions.

(3) An evaluation of the effect that each provision referred to in subsection (a)(2) has had or will have on (A) improving decisions within the Department of Defense with respect to the allocation of resources, and (B) improving the implementation of such decisions.

(4) With respect to section 166 of title 10, United States Code, the assessment by the commander, supported by actual examples, of what the effect would be of a small budget (in an annual amount of not more than $50,000,000) that would be managed by the Chairman of the Joint Chiefs of Staff but which would be controlled for execution by the commander and that would be available for activities to which the commander assigns a high priority, such as—

(A) JCS/non-JCS exercises (including foreign country participation);

(B) on-going contingencies;

(C) command and control;

(D) training; and

(E) selected operations.

(5) The views of the commander on the optimum role of the unified and specified commands in resource allocation decision-making and execution within the Department of Defense.

(6) The assessment of the commander concerning the degree to which that optimum role is played, as of the time of the preparation of the report, by his command.

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(7) The assessment of the commander of whether current law, regulations, policies, and procedures provide the latitude for his command to play that optimum role.

(c) REPORT BY CHAIRMAN OF JOINT CHIEFS OF STAFF.—(1) The Chairman of the Joint Chiefs of Staff shall, not later than April 1, 1989, prepare a report on the implementation of the resource allocation provisions of title 10, United States Code, enacted by the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433) that are specified in paragraph (2) and any other resource allocation provision enacted by that Act which the Chairman considers appropriate.

(2) The sections of title 10, United States Code, referred to in paragraph (1) are the following:

(A) Section 113(g), relating to annual guidance by the Secretary of Defense to the heads of Department of Defense components.

(B) Section 153(a)(2)(A), relating to the preparation of strategic plans.

(C) Section 153(a)(3)(C), relating to the preparation and review of contingency plans.

(D) Section 153(a)(4), relating to advice by the Chairman to the Secretary of Defense concerning the requirements, programs, and budget of the Department of Defense.

(E) Section 163(b)(2), relating to the role of the Chairman as spokesman for the commanders of the unified and specified combatant commands.

(F) Section 166, relating to budget proposals for such commands.

(d) MATTERS TO BE INCLUDED.—The report required by subsection (c) shall address the following matters:

(1) The status of implementation of each of the provisions referred to in subsection (c)(2) and any other related resource allocation provisions.

(2) For any provision referred to in subsection (c)(2) that is not fully implemented, the date estimated by the Chairman for final implementation of such provisions.

(3) An evaluation of the effect that each provision referred to in subsection (c)(2) has had or will have on (A) improving decisions within the Department of Defense with respect to the allocation of resources, and (B) improving the implementation of such decisions.

(4) The views of the Chairman on the optimum role of the unified and specified commands, the Joint Staff, and the Chairman in resource allocation decisionmaking and execution within the Department of Defense .

(5) The assessment of the Chairman concerning the degree to which those optimum roles are played, as of the time of the preparation of the report, by the unified and specified commands, the Joint Staff, and the Chairman.

(6) The assessment of the Chairman of whether current law, regulations, policies, and procedures provide the latitude for the unified and specified commands, the Joint Staff, and the Chairman to play those optimum roles.

(e) SUBMISSION OF REPORTS.—The commanders of the unified and specified commands shall each submit the report required by subsection (a) to the Secretary of Defense. The Chairman of the Joint Chiefs of Staff shall submit the report required by subsection (c) to the Secretary. The Secretary shall transmit those reports, without change, to the Committees on Armed Services of the Senate and House of Representatives not later than April 1, 1989, together with such comments on the reports and such recommendations as the Secretary considers appropriate.

SEC. 715. REPORT ON INITIAL REVIEW OF UNIFIED COMMAND PLAN AND INITIAL REVIEW OF SERVICE ROLES AND MISSIONS

(a) REPORT REQUIREMENT.—Not later than April 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation of sections 153(b) and 161(b) of title 10, United States Code.

(b) INITIAL REVIEW OF SERVICE ROLES AND MISSIONS.—With respect to the initial report of the Chairman of the Joint Chiefs of Staff to the Secretary of Defense under such section 153(b) (relating to the assignment of functions (or roles and missions) to the Armed Forces), the report under subsection (a) shall particularly describe how such report addressed each of the matters that the Chairman was required (under the second sentence of such section) to consider in preparing the report.

(c) INITIAL REVIEW OF THE UNIFIED COMMAND PLAN.—With respect to the initial review of the Chairman under such section 161(b) (relating to the missions, responsibilities, and force structures of the unified and specified combatant commands), the report under subsection (a) shall particularly describe how such review took into consideration each of the matters specified in paragraphs (1) through (10) of section 212(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 1017).

(d) MATTERS TO BE INCLUDED.—The report under subsection (a) shall describe, with respect to the reports referred to in subsections (b) and (c)—

(1) the Secretary's evaluation of each of the findings and conclusions of the Chairman in each such report;

(2) how the Secretary has implemented (or proposes to implement) each of the recommendations in each such report; and

(3) such recommendations for further legislative and administrative action as the Secretary considers appropriate based on his review of the reports.

PART C—PERSONNEL-RELATED PROVISIONS

10 USC 814 note.

SEC. 721. REGULATIONS FOR DELIVERY OF MILITARY PERSONNEL TO CIVIL AUTHORITIES WHEN CHARGED WITH CERTAIN OFFENSES

(a) Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall ensure that the Secretaries of the military departments have issued uniform regulations pursuant to section 814 of title 10, United States Code, to provide for the delivery of members of the Armed Forces to civilian authority when such members have been accused of offenses against civil authority. Such regulations shall specifically provide for the delivery of such members to civilian authority, in appropriate cases, when such members are accused of parental kidnapping and other similar offenses, including criminal contempt arising from such offenses and from child custody matters, and shall specifically address the special needs for the exercise of the authority contained in section 814 of title 10, United States Code, when members of the Armed Forces assigned overseas are accused of offenses by civilian authorities.

102 STAT. 2002

(b) Not later than 120 days after the enactment of this Act, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and House of Representatives a copy of all regulations promulgated under section 814 of title 10, United States Code, as a result of this section and any recommendations that the Secretary may have concerning the need for additional legislation related to the amenability of members of the Armed Forces to civil authority.

SEC. 722. ANNUITIES FOR JUDGES OF UNITED STATES COURT OF MILITARY APPEALS

(a) IN GENERAL.—Section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

"(i)(1) A judge of the United States Court of Military Appeals who is separated from civilian service in the Federal Government after completing the term of service for which he was appointed as a judge of the court is eligible for an annuity under this subsection. An individual who is a former judge of the court who is separated

from civilian service in the Federal Government and who completed the term of service on the court for which he was appointed is eligible for an annuity under this subsection. A judge or former judge who is eligible for an annuity under this subsection shall be paid that annuity if he elects, at the time he becomes eligible to receive that annuity, to receive that annuity in lieu of any other annuity for which he may be eligible at the time of such election (whether an immediate or a deferred annuity) under subchapter III of chapter 83 or chapter 84 of title 5 or any other retirement system for civilian employees of the Federal Government. Such an election may not be revoked.

"(2) The annuity of a judge or former judge under this subsection is 80 percent of the rate of pay for a judge in active service on the United States Court of Military Appeals as of the date on which the judge or former judge is separated from civilian service.

"(3) Nothing in this subsection affects any right of a judge or former judge to participate in the thrift savings plan under subchapter III of chapter 84 of title 5.

"(4) The Secretary of Defense shall prescribe by regulation a program to provide annuities for survivors and former spouses of judges and former judges who receive an annuity under this subsection. That program shall, to the maximum extent practicable, provide benefits and establish terms and conditions that are similar to those provided under survivor and former spouse annuity programs under retirement systems for civilian employees of the Federal Government. The program may include provisions for the reduction in the annuity paid the judge or former judge as a condition for the annuity. An election by a judge or former judge to receive an annuity under this subsection terminates any right or interest which any individual may have to an annuity under any other retirement system for civilian employees of the Federal Government based on the service of the judge or former judge. Regulations.

"(5) The Secretary of Defense shall periodically increase annuities and survivor annuities paid under this subsection in order to take account of changes in the cost of living. The Secretary shall prescribe by regulation procedures for increases in annuities under this subsection. Such system shall, to the maximum extent appropriate, provide cost-of-living adjustments that are similar to those that are provided under other retirement systems for civilian employees of the Federal Government. Regulations.

"(6) A retired judge or former judge of the court who is receiving an annuity under this subsection and who is appointed to a position in the Federal Government shall, during the period of such retired judge's or former judge's service in such position, be entitled to receive only the annuity under this subsection or the pay for that position, whichever is paid at the higher rate.

"(7) A retired judge or former judge who is entitled to an annuity under this subsection and who later is appointed as a justice or judge of the United States to hold office during good behavior and who retires from that office, or from regular active service in that office, shall be paid either (A) the annuity under this subsection, or (B) the annuity or salary to which he is entitled by reason of his service as such a justice or judge of the United States, as determined by an election by the judge or former judge at the time of such retirement from the office, or from regular active service in the office, of justice or judge of the United States. Such an election may not be revoked.

"(8) Annuities and survivor annuities paid under this subsection shall be paid out of the Department of Defense Military Retirement Fund.".

(b) DEADLINE FOR ESTABLISHMENT OF SURVIVOR PROGRAM.—The Secretary of Defense shall establish the program required by paragraph (4) of section 867(i) of title 10, United States Code, as added by subsection (a), not later than one year after the date of the enactment of this Act. 10 USC 867 note.

(c) TECHNICAL AMENDMENT.—Section 867(a)(4) of title 10, United States Code, is amended by inserting "or an annuity under subsection (i) or subchapter III of chapter 83 or chapter 84 of title 5" after "retired pay" both places it appears.

10 USC 867 note.

(d) EFFECTIVE DATE.—Subsection (i) of section 867 of title 10, United States Code, as added by subsection (a), shall apply with respect to judges of the United States Court of Military Appeals whose term of service on such court ends on or after the date of the enactment of this Act and to the survivors of such judges.

PART D—OTHER

SEC. 731. ANNUAL NET ASSESSMENTS

Section 113(j) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(j)";

(2) by striking out the second sentence; and

(3) by adding at the end the following:

"(2) Each such report shall—

"(A) include a comparison of the defense capabilities and programs of the armed forces of the United States and its allies with the armed forces of potential adversaries of the United States and allies of the United States;

"(B) include an examination of the trends experienced in those capabilities and programs during the five years immediately preceding the year in which the report is transmitted and an examination of the expected trends in those capabilities and programs during the five years covered by the Five-Year Defense Program submitted to Congress during that year pursuant to section 114(g) of this title;

102 STAT. 2004

"(C) reflect, in the overall assessment and in the strategic and regional assessments, the defense capabilities and programs of the armed forces of the United States specified in the budget submitted to Congress under section 1105 of title 31 in the year in which the report is submitted and in the five-year defense program submitted in such year; and

"(D) identify the deficiencies in the defense capabilities of the armed forces of the United States in such budget and such five-year defense program.

Reports.

"(3) The Secretary shall transmit to Congress the report required for each year under paragraph (1) at the same time that the President submits the budget to Congress under section 1105 of title 31 in that year. Such report shall be transmitted in both classified and unclassified form.".

Classified information. Public information.

SEC. 732. LINKAGE OF NATIONAL MILITARY STRATEGY AND WEAPON ACQUISITION PROGRAMS

(a) FINDINGS.—Congress makes the following findings:

(1) The Final Report to the President by the President's Blue Ribbon Commission on Defense Management (the "Packard Commission"), the Defense Acquisition Study of the Center for Strategic and International Studies, and the Report of the Commission on Integrated Long-Term Strategy (referred to as "Discriminate Deterrence") have separately identified significant deficiencies in the integration of weapon acquisition programs of the Department of Defense with national military strategy.

(2) There is no established process involving the Office of the Secretary of Defense and the Joint Staff in which strategy, policy, operational concepts, and resource constraints are fully debated, coordinated, and translated into weapon acquisition programs. The dominant role of setting requirements for new weapon systems remains with the headquarters staffs of the military departments, and the requirements developed by those departments often do not appear to have been rigorously evalu-

ated in terms of their overall contribution to national military strategy.

(3) The requirements and planning process of the Department of Defense is not constrained by realistic projections of future defense budgets. Consequently, the process is fiscally unrealistic and, therefore, largely ignored in the subsequent planning and budgeting process. This process often results in disparate plans that do not optimize the potential contribution of the acquisition programs of each military department to the objectives of national military strategy.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) to ensure that the United States develops and acquires the proper mix of weapon systems to support national military strategy most effectively and efficiently, the Office of the Secretary of Defense and the Joint Staff should better define the links between national military strategy and specific acquisition programs;

(2) the Office of the Secretary of Defense, the Joint Staff, and the headquarters of the unified and specified combatant commands should more clearly define the necessary operational capabilities and concepts of operations as part of the requirements process and should explicitly consider alternative acquisition programs based on probable levels of resources likely to be approved by Congress and trade-offs among the acquisition programs of the military departments;

(3) the Secretary of Defense should ensure that resulting acquisition programs clearly reflect the objectives of national military strategy; and

(4) the Secretary of Defense should commission an independent study to assess the degree to which the development and acquisition of weapon systems is currently linked to and determined by the national military strategy and to recommend improvements where necessary or desirable.

SEC. 733. REPORT ON FUNDING FOR THE AMMUNITION PRODUCTION BASE

(a) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the maintenance of the inactive portion of the Government-owned ammunition production base is critical to the defense of the United States; and

(2) that sufficient funding should be provided to maintain this base to meet surge requirements and mobilization requirements of the military departments.

(b) STUDY OF ALTERNATIVES.—The Secretary of Defense shall study alternatives to the current method of providing funds for maintenance of the ammunition production base in order to determine if there are methods other than the current one which would better ensure that appropriate levels of funds are used for the maintenance of that production base.

(c) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the alternative methods considered by the Secretary under subsection (b) for providing funds for the ammunition production base. The Secretary shall include in the report such comments and recommendations with respect to such methods, including recommendations for legislation, as the Secretary considers appropriate. The report shall be submitted not later than December 1, 1988.

SEC. 734. SENSE OF CONGRESS CONCERNING DECLASSIFICATION OF CLASSIFIED INFORMATION

It is the sense of Congress that the Secretary of Defense should take all reasonable measures to declassify classified material under the control of the Department of Defense that the Secretary deter-

mines to be no longer required in the interest of national security to be protected from unauthorized disclosure.

SEC. 735. ADVANCE PAYMENTS OF ADMINISTRATIVE CLAIMS

(a) INCREASE IN MAXIMUM PAYMENT.—Subsection (a) of section 2736 of title 10, United States Code, is amended to read as follows:

"(a)(1) In the case of a person who is injured or killed, or whose property is damaged or lost, under circumstances for which the Secretary of a military department is authorized by law to allow a claim, the Secretary of the military department concerned may make a payment to or for the person, or the legal representatives of the person, in advance of the submission of such a claim or, if such a claim is submitted, in advance of the final settlement of the claim. The amount of such a payment may not exceed $100,000.

102 STAT. 2006

"(2) Payments under this subsection are limited to payments which would otherwise be payable under section 2733 or 2734 of this title or section 715 of title 32.

"(3) The Secretary of a military department may delegate the authority to make payments under this subsection to the Judge Advocate General of an armed force under the jurisdiction of the Secretary. The Secretary may delegate such authority to any other officer or employee under the jurisdiction of the Secretary, but only with respect to the payment of amounts of $25,000 or less.

Regulations.

"(4) Payments under this subsection shall be made under regulations prescribed by the Secretary of the military department concerned.".

10 USC 2736 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any claim which would otherwise be payable under section 2733 or 2734 of title 10, United States Code, or under section 715 of title 32, United States Code, and which has not been finally settled on or before the date of the enactment of this Act.

Contracts. 42 USC 8287 note.

SEC. 736. ENERGY EFFICIENCY INCENTIVE

(a) ENERGY CONSERVATION INCENTIVE.—In order to provide additional incentive for the Secretary of a military department to enter into contracts under title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.), the Secretary may use the first-year energy cost savings (as defined in subsection (d)) realized under any such contract in the manner provided in subsection (b). The amount of savings available for use under subsection (b) shall be determined as provided in subsection (c) and shall remain available for obligation until expended.

(b) AUTHORIZED USES OF SAVINGS.—First-year energy cost savings may be used as follows:

(1) One-half of the amount of such savings may be used for the acquisition of energy conserving measures at a military installation in addition to any such energy conserving measures provided for that installation under a contract entered into under title VIII of the National Conservation Energy Policy Act.

(2) One-half of the amount of such savings may be used for any morale, welfare, or recreation facility or service that is normally provided with appropriated funds, or for any minor military construction project (as defined in section 2805(a) of title 10, United States Code), that will enhance the quality of life of members of the Armed Forces at the military installation at which the energy cost savings were realized.

(c) DETERMINATION OF AMOUNT OF SAVINGS.—Not more than 90 days after the end of the first year during which energy savings measures have been in operation under a contract entered into by the Secretary of a military department under title VIII of the National Energy Conservation Policy Act, the Secretary of the military department concerned shall determine the amount of first-year energy cost savings realized under the terms of the contract during that year by the military department concerned by reason of the energy savings measures acquired and installed at that installation pursuant to that contract.

(d) DEFINITION.—For purposes of this section, the term "first-year energy cost savings" means the savings realized by the United States during the first year of a contract entered into by the Secretary of a military department under title VIII of the National Energy Conservation Policy Act. 102 STAT. 2007

TITLE VIII—ACQUISITION POLICY AND MANAGEMENT

Business and industry. Science and technology. Contracts.

PART A—ACQUISITION MANAGEMENT

SEC. 801. INTEGRATED FINANCING POLICY

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2330. Integrated financing policy

"(a) PLAN.—(1) The Secretary of Defense shall develop and keep current a plan that ensures that Department of Defense policies referred to in paragraph (2) are structured to meet the long-term needs of the Department of Defense for industrial resources and technology innovation.

"(2) This section applies to the following policies applicable to Department of Defense contracts:

"(A) Policies relating to progress payments or other financing by the Department of Defense under such contracts.

"(B) Policies relating to the return on contractor investment under such contracts.

"(C) Policies relating to the allocation of contract risk between the Department of Defense and a contractor.

"(b) MATTERS TO TAKE INTO CONSIDERATION.—In developing the plan under subsection (a) and keeping such plan current, the Secretary shall take into consideration the following:

"(1) The Five-Year Defense Program submitted to Congress under section 114(g) of this title each year.

"(2) Department of Defense mobilization plans.

"(3) The different characteristics of separate segments and tiers of private industry.

"(4) The profitability of contracts negotiated by the Department of Defense in each fiscal year.

"(c) REVIEW.—Each year the Secretary of Defense shall review the plan developed under subsection (a) and shall report the results of such review to the Committees on Armed Services of the Senate and the House of Representatives in conjunction with the submission of the Five-Year Defense Program in such year.

"(d) USE OF INFORMATION ON PROFITABILITY.—The Secretary of Defense, in negotiating any contract, shall use the most current information on profitability developed or obtained by the Secretary of Defense. The Secretary shall submit a report to Congress each year in conjunction with the submission of the Five-Year Defense Program on the extent to which contracts negotiated during the preceding fiscal year have prevented excessive contractor profits, determined on the basis of information obtained by the Secretary of Defense.". Reports.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2330. Integrated financing policy.". 102 STAT. 2008

(b) ADVISORY COMMITTEE ON STUDY METHODOLOGY.—(1) The Secretary of Defense shall appoint, in accordance with paragraph (3), an advisory committee consisting of five members for the purpose of recommending to the Secretary a financial analysis methodology for any return on investment study conducted by the Secretary. 10 USC 2330 note.

(2) In recommending a financial analysis methodology under paragraph (1), the advisory committee shall provide recommendations on the desirability of using separate calculations for—

(A) the return on assets;

(B) the return on sales;

(C) capital-to-labor ratios;
(D) asset turnover;
(E) total investment in research and development; and
(F) such other measures of rate of return on investment as the Secretary determines to be appropriate.

(3) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall appoint the members of the committee, with representation from both the public and private sectors.

(4) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee appointed under this subsection.

Reports.

(5) Not later than November 1, 1989, the advisory committee shall submit to the Secretary of Defense a report containing the financial analysis methodology recommended for use in the conduct of the study referred to in paragraph (1). The committee shall cease to exist 90 days after submission of its report.

Reports.

(6) Not later than 90 days after receipt of the report from the advisory committee, the Secretary of Defense shall transmit the report to Congress, together with the Secretary's views on the committee's report.

SEC. 802. COMPETITIVE PROTOTYPE STRATEGIES

Section 2365 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) TERMINATION.—This section shall cease to be effective on September 30, 1991.".

SEC. 803. DELEGATION OF AUTHORITY TO APPROVE CERTAIN CONTRACT JUSTIFICATIONS

Section 2304(f) of title 10, United States Code, is amended—

(1) in paragraph (1)(B)(ii), by striking out "or a delegate" and all that follows through the semicolon and inserting in lieu thereof "(or the head of the procuring activity's delegate designated pursuant to paragraph (6)(A));";

(2) in paragraph (1)(B)(iii), by inserting "or in the case of the Under Secretary of Defense for Acquisition, acting in his capacity as the senior procurement executive for the Department of Defense, the Under Secretary's delegate designated pursuant to paragraph (6)(B)" after "(without further delegation)"; and

(3) by adding at the end the following:

"(6)(A) The authority of the head of a procuring activity under paragraph (1)(B)(ii) may be delegated only to an officer or employee who—

"(i) if a member of the armed forces, is a general or flag officer; or

"(ii) if a civilian, is serving in a position with a grade under the General Schedule (or any other schedule for civilian officers or employees) that is comparable to or higher than the grade of brigadier general or rear admiral (lower half).

102 STAT. 2009

"(B) The authority of the Under Secretary of Defense for Acquisition under paragraph (1)(B)(iii) may be delegated only to—

"(i) an Assistant Secretary of Defense; or

"(ii) with respect to the element of the Department of Defense (as specified in section 111(b) of this title), other than a military department, carrying out the procurement action concerned, an officer or employee serving in or assigned or detailed to that element who—

"(I) if a member of the armed forces, is serving in a grade above brigadier general or rear admiral (lower half); or

"(II) if a civilian, is serving in a position with a grade under the General Schedule (or any other schedule for civilian officers or employees) that is comparable to or higher than the grade of major general or rear admiral.".

SEC. 804. EVALUATION OF CONTRACTS FOR PROFESSIONAL AND TECHNICAL SERVICES

10 USC 2304 note.

(a) ESTABLISHMENT OF CRITERIA.—Within 120 days after the date of the enactment of this Act, the Secretary of Defense shall establish criteria to ensure that proposals for contracts for professional and technical services are evaluated on a basis which does not encourage contractors to propose mandatory uncompensated overtime for professional and technical employees. In establishing such criteria, the Secretary shall consider the recommendations of the advisory committee established under subsection (b). The Secretary shall, before implementing such criteria, transmit to the Committees on Armed Services of the Senate and House of Representatives a report containing such criteria and the recommendations made by the advisory committee.

Reports.

(b) ADVISORY COMMITTEE.—(1) Within 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an advisory committee to make recommendations on the criteria to be adopted by the Secretary. The advisory committee shall be composed, at a minimum, of such representatives as the Secretary considers appropriate from the Office of the Under Secretary of Defense for Acquisition, the Office of the Comptroller of the Department of Defense, the Acquisition Executives of the military departments, the Defense Contract Audit Agency, the Office of the Inspector General of the Department of Defense, and professional and technical services industries.

(2) In developing the recommendations, the advisory committee shall address the following issues:

(A) How the Department of Defense can best be assured that it receives the best quality services for the amounts expended and that the contractors supplying such services follow sound personnel management practices and observe established labor-management policies and regulations.

(B) Whether contract competitions should be structured in a manner that requires offerors to compete on the basis of factors other than the number of hours per week its professional and technical employees of similar annual salaries work.

(C) Whether the Department of Defense can allow contractors to maintain different accounting systems (for example, 40-hour work week, full time accounting) and still allow the Department to evaluate proposals on the basis of a work rate of 40 hours per week and 2,080 hours per year.

102 STAT. 2010

SEC. 805. PROCUREMENT OF CRITICAL AIRCRAFT AND SHIP SPARE PARTS

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2382 the following:

"§ 2383. Procurement of critical aircraft and ship spare parts: quality control

"(a) In procuring any spare or repair part that is critical to the operation of an aircraft or ship, the Secretary of Defense shall require the contractor supplying such part to provide a part that meets all appropriate qualification and contractual quality requirements as may be specified and made available to prospective offerors. In establishing the appropriate qualification requirements, the Secretary of Defense shall utilize those requirements, if available, which were used to qualify the original production part, unless the Secretary of Defense determines in writing that any or all such requirements are unnecessary.

"(b) In this section, the term 'spare or repair part' has the meaning given such term by section 2323(f) of this title.".

10 USC 2383 note.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2382 the following new item:

"2383. Procurement of critical aircraft and ship spare parts: quality control.".

(b) EFFECTIVE DATE.—Section 2383 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 806. INCENTIVES FOR INNOVATION

(a) IN GENERAL.—(1) Section 2305(d) of title 10, United States Code, is amended by adding at the end the following:

"(4)(A) Whenever the head of an agency requires that proposals described in paragraph (1)(B) or (2)(B) be submitted by an offeror in its offer, the offeror shall not be required to provide a proposal that enables the United States to acquire competitively in the future an identical item if the item was developed exclusively at private expense unless the head of the agency determines that—

"(i) the original supplier of such item will be unable to satisfy program schedule or delivery requirements; or

"(ii) proposals by the original supplier of such item to meet the mobilization requirements are insufficient to meet the agency's mobilization needs.

"(B) In considering offers in response to a solicitation requiring proposals described in paragraph (1)(B) or (2)(B), the head of an agency shall base any evaluation of items developed exclusively at private expense on an analysis of the total value, in terms of innovative design, life-cycle costs, and other pertinent factors, of incorporating such items in the system.".

(2) Section 2305(d)(3) of such title is amended by adding at the end the following: "Such objectives may not impair the rights of prospective contractors or subcontractors otherwise provided by law.".

(b) CLARIFYING AMENDMENT.—Paragraphs (1)(B) and (2)(B) of section 2305(d) of such title are each amended by striking out "The proposals" and all that follows through "contract are" and inserting in lieu thereof "Proposals referred to in the first sentence of subparagraph (A) are".

102 STAT. 2011

SEC. 807. REGULATIONS ON USE OF FIXED-PRICE DEVELOPMENT CONTRACTS

10 USC 2304 note.

(a) IN GENERAL.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall revise the Department of Defense regulations that provide for the use of fixed-price type contracts in a development program. The regulations shall provide that a fixed-price contract may be awarded in such a program only if—

(A) the level of program risk permits realistic pricing; and

(B) the use of a fixed-price contract permits an equitable and sensible allocation of program risk between the United States and the contractor.

(2)(A) The regulations also shall provide that if a contract for development of a major system is to be awarded in an amount greater than $10,000,000, the contract may not be a firm fixed-price contract.

(B) A waiver of the requirement prescribed in regulations under subparagraph (A) may be granted by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, but only if the Secretary determines and states in writing that the award is consistent with the criteria specified in clauses (A) and (B) of paragraph (1) and the regulations prescribed under such paragraph. The Secretary may delegate the authority in the preceding sentence only to a person who holds a position in the Office of the Secretary of Defense at or above the level of Assistant Secretary of Defense.

(b) DEFINITIONS.—In this section, the term "major system" has the meaning given such term by section 2302(5) of such title.

(c) EXPIRATION.—Paragraph (2) of subsection (a) shall cease to be effective two years after the date of the enactment of this Act.

SEC. 808. DEPARTMENT OF DEFENSE ADVISORY PANEL ON GOVERNMENT-INDUSTRY RELATIONS

(a) ESTABLISHMENT OF ADVISORY PANEL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an advisory panel to study and make recommendations to the Secretary on ways to enhance cooperation between the Department of Defense and industry regarding matters of mutual interest, including—

(1) procedures governing the debarment and suspension of contractors from doing business with the Department of Defense;

(2) the role of self-governing oversight programs established by defense contractors;

(3) expanded use of alternative dispute resolution procedures; and

(4) the desirability of establishing a permanent advisory panel on government-industry relations.

(b) MEMBERSHIP OF ADVISORY PANEL.—The Secretary of Defense shall appoint persons to the advisory panel who are especially qualified to serve on such panel by virtue of their education, training, and experience in defense acquisition matters. The Secretary shall include on the membership of such panel an appropriate balance of persons from government, private industry, and academia. 102 STAT. 2012

(c) REPORT DEADLINE.—(1) The Secretary shall require the advisory panel to submit its findings and recommendations to him not later than 180 days after the date on which the panel is appointed.

(2) The Secretary shall transmit a copy of the report of the advisory panel to Congress, together with such comments and recommendations thereon as the Secretary determines appropriate, within 30 days after the date on which the report is submitted to the Secretary.

SEC. 809. REPORT ON SIMPLIFICATION AND STREAMLINING OF ACQUISITION PROCEDURES

(a) REPORT ON ACQUISITION SIMPLIFICATION PROGRAMS.—The Under Secretary of Defense for Acquisition shall submit to Congress a report on the current programs of the Under Secretary regarding simplification of procedures governing the acquisition process of the Department of Defense. The report shall include an assessment of the results of those programs.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) A timetable to effectuate regulation reform measures based on the lessons learned from the conduct of the programs referred to in subsection (a).

(2) In the case of a program referred to in subsection (a) which has not been completed—

(A) the methodology to be used in evaluating such program; and

(B) a timetable for completing an assessment of the results of the program.

(3) A comprehensive analysis of the effects that existing laws, regulations, and guidelines applicable to procurement by the Department of Defense have on the capability of the Department of Defense efficiently and effectively to meet the national defense needs of the United States, including any recommendations for legislation that the Under Secretary considers appropriate to improve that capability.

(4) A description of the results of the studies undertaken by the Under Secretary in conjunction with the Inspector General of the Department of Defense and the Comptroller of the Department of Defense regarding the responsibilities of the Under Secretary under section 133(d) of title 10, United States Code, to prescribe policies for the prevention of duplicative

audit and oversight of contractor activities by different elements of the Department of Defense.

(5) A discussion of the feasibility and desirability of each of the following:

(A) Structuring the audit and oversight of a contractor by the Department of Defense in a manner that reasonably relates to the extent of the risk assumed by the contractor in the type of contract that is subject to the audit and oversight.

(B) Granting authority to a senior official of the Department of Defense to receive and promptly resolve complaints of acquisition officials and contractors of the Department of Defense regarding allegations of duplicative oversight activities.

102 STAT. 2013

(C) Establishing a formal independent means within the Department of Defense to ensure quality, integrity, and professionalism in the performance of audit and oversight activities.

(D) Establishing and implementing a policy that prohibits an organization within the Department of Defense with responsibility for oversight of contractor activities from conducting an audit or review of an activity in the Department of Defense if another such oversight organization of the Department of Defense has conducted an audit or review of that activity within a fixed period of time preceding the proposed audit or review, unless the audit or review proposed to be conducted is substantially different in type and scope from the prior audit or review and there is a compelling reason not to rely on the prior audit or review.

(c) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than December 1, 1988.

(d) COORDINATION OF ANNUAL AUDIT PLANS BY AUDIT AND OVERSIGHT ELEMENTS OF DOD.—Section 133(d)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "Such policies shall provide for coordination of the annual plans developed by each such element for the conduct of audit and oversight functions within each contracting activity.".

PART B—DEFENSE INDUSTRIAL BASE

SEC. 821. MAINTENANCE AND IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

10 USC 2501 note.

(a) FINDINGS.—Congress finds the following:

(1) A strong defense industrial base in the United States is essential to the national security and significantly enhances the capability of United States manufacturers and producers—

(A) to develop technologically superior defense material rapidly and to produce such material efficiently in cost-effective quantities during peacetime; and

(B) to expand productive capacity rapidly to meet the demands of a national emergency.

(2) A strong and responsive defense industrial base is a basic deterrent to aggression and, thus, helps to preserve peace.

(3) Studies conducted over a 10-year period by Congress, the General Accounting Office, the Department of Defense, and others have consistently shown a steady, unchecked erosion of the defense industrial base in the United States.

(4) Despite the uniformly adverse findings contained in the reports on such studies, the United States still lacks a coherent industrial base policy that is directly linked to national security strategy.

(5) Reliable methods for assessing the weaknesses and strengths of the defense industrial base have not been utilized.

(6) The development and implementation of an effective program for the restoration and maintenance of the defense industrial base is unlikely to occur without improved centralized policy direction and management.

(7) Existing programs and authorities designed to restore and maintain the defense industrial base have received inconsistent and, frequently, inadequate allocations of resources and management attention from the military departments and the Defense Agencies because the Office of the Secretary of Defense has not exercised strong leadership in defense industrial base management. 102 STAT. 2014

(8) Procurement policies, regulations, and practices of the Department of Defense do not sufficiently encourage—

(A) investment in advanced manufacturing technology and modernization of manufacturing facilities and equipment;

(B) the entry of efficient commercial producers into the defense procurement market; and

(C) continued participation of efficient producers in defense procurement competitions.

(b) AMENDMENTS TO TITLE 10.—(1) Chapter 148 of title 10, United States Code, is amended—

(A) by redesignating sections 2501 and 2502 as sections 2506 and 2507, respectively; and

(B) by striking out the chapter heading and the table of sections and inserting in lieu thereof the following:

"CHAPTER 148—DEFENSE INDUSTRIAL BASE

"Sec.
"2501. Centralized guidance, analysis, and planning.
"2502. Policies relating to defense industrial base.
"2503. Defense industrial base office.
"2504. Defense memoranda of understanding.
"2505. Offset policy; notification.
"2506. Limitation on use of funds: procurement of goods which are other than American goods.
"2507. Miscellaneous procurement limitations.

"§ 2501. Centralized guidance, analysis, and planning

"The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall—

"(1) provide overall policy guidance and direction to the military departments and the Defense Agencies on matters relating to the maintenance, expansion, and readiness of the defense industrial base of the United States;

"(2) analyze the capabilities of the defense industrial base of the United States to fulfill the requirements of national defense strategy in time of peace and the expanded requirements of national defense strategy in time of war or national emergency;

"(3) develop clear standards for assessing military mobilization requirements and the manner in which those requirements will be met;

"(4) develop and direct the implementation of plans, programs, and policies that promote the ability of the defense industrial base of the United States to fulfill the requirements of the Department of Defense; and

"(5) identify and plan for the procurement of items of supply that—

"(A) are suitable substitutes for military standard items of supply, or suitable substitutes for subsystems or components of military standard items of supply, that are anticipated to be unavailable from existing sources in quantities that are sufficient to meet planned requirements in time of war or national emergency; and 102 STAT. 2015

"(B) are commercially available from domestic sources.

"§ 2502. Policies relating to defense industrial base

"(a) ACQUISITION POLICIES.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish and implement policies requiring—

"(1) for each major defense acquisition program, an analysis of the capabilities of the defense industrial base to develop, produce, maintain, and support such program;

"(2) the consideration of requirements for efficient manufacture during the design and production of the systems to be procured under the major defense acquisition program;

"(3) the use of advanced manufacturing technology, processes, and systems during the research and development and production phases of the acquisition of a weapon system under a major defense acquisition program;

"(4) to the maximum extent practicable for each major defense acquisition program, the development of an acquisition plan that provides for contract solicitations which encourage competing offerors to acquire, for use in the performance of the contract, modern technology, production equipment, and production systems (including hardware and software) that increase the productivity of the offerors and reduce life-cycle costs;

"(5) the encouragement of domestic source investment in advanced manufacturing technology production equipment and processes through—

"(A) recognition of the contractor's investment in advanced manufacturing technology production equipment and processes in the development of the contract objective; and

"(B) increased emphasis in source selections to the efficiency of production;

"(6) the expanded use of commercial manufacturing processes rather than processes specified by the Department of Defense;

"(7) elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under defense contracts; and

"(8) the expanded use of commercial products as set forth in section 2325 of this title.

"(b) ANALYSIS.—(1) In the conduct of any analysis required under subsection (a)(1), the following factors, as appropriate, may be considered:

"(A) The availability of essential raw materials, special alloys, and composite materials.

"(B) The availability of components, subsystems, production equipment, and facilities that are essential for—

"(i) the sustained production of a system that is fully capable of performing its purpose;

"(ii) the uninterrupted maintenance and repair of such system; and

"(iii) the sustained operation of such system.

"(C) The availability of required special tooling and production test equipment.

"(D) The identification of components or subsystems that are available solely from sources outside the United States.

102 STAT. 2016

"(E) Planned alternatives, if appropriate, for fulfilling requirements that during peacetime are fulfilled by sources outside the United States.

"(2) In the conduct of the analysis required under subsection (a)(1), the Under Secretary shall minimize the paperwork burden on the contractor, its subcontractors, and suppliers.

"(c) ASSESSMENTS.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall ensure that, for each major defense acquisition program—

"(A) the capability of the domestic defense industrial base to meet requirements for that program has been assessed by the military department or Defense Agency carrying out such program; and

"(B) the capability of the domestic defense industrial base to meet the aggregate requirements for all such programs has been assessed in the Office of the Secretary of Defense.

"(2) For purposes of this subsection, the term 'domestic defense industrial base' means firms engaged in production in the United States and Canada.

"§ 2503. Defense industrial base office

"The Under Secretary of Defense for Acquisition may establish within the Office of the Under Secretary of Defense for Acquisition a defense industrial base office to be the principal office in the Department of Defense for the development of policies and plans regarding the conduct of programs for the improvement of the defense industrial base of the United States. Such an office shall, at a minimum—

"(1) develop and propose plans and programs for the maintenance and fostering of defense industrial readiness in the United States;

"(2) develop and propose plans and programs to encourage the use by the defense industries of the United States of advanced manufacturing technology and processes and investment in improved productivity;

"(3) propose, consistent with existing law, the repeal or amendment of the regulations of the Department of Defense prescribed as part of the Federal Acquisition Regulation (the single system of Government-wide procurement regulation as defined in section 4(4) of the Office of Federal Procurement Policy Act) and such other regulations and policies as may be necessary to eliminate any adverse effect that the regulations and policies may have on investment in improved productivity; and

"(4) evaluate and propose for testing innovative ideas for improving defense industrial readiness in the United States, including ideas for improving—

"(A) manufacturing processes; and

"(B) the acquisition procedures of the Department of Defense.".

(2) The items relating to chapter 148 in the tables of chapters at the beginning of part IV of subtitle A of title 10, United States Code, and at the beginning of such subtitle, are each amended to read as follows:

"148. Defense Industrial Base ..... 2501". 102 STAT. 2017

(c) ANALYSIS OF DEFENSE INDUSTRIAL BASE CAPABILITY.—(1) The Under Secretary of Defense for Acquisition shall require the Secretary of each military department to provide to the Under Secretary at least one analysis of the type described in section 2502(a)(1) of title 10, United States Code (as added by subsection (b)) for an acquisition program carried out by such department. The Under Secretary shall compile and analyze the data obtained from such analysis in order to ascertain whether the industrial base is capable of supporting each such program. 10 USC 2502 note.

(2) A program may not be selected for an analysis under this subsection if production of the system to be acquired under such program has begun.

(3) All analyses required under this subsection shall be completed not later than September 30, 1990.

(4) Not later than February 1, 1991, the Under Secretary of Defense for Acquisition shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the analyses required under this subsection. Reports.

SEC. 822. SOURCE FOR PROCUREMENT OF CERTAIN VALVES AND MACHINE TOOLS

Section 2507 of title 10, United States Code, as redesignated by section 821, is amended by adding at the end the following new subsection:

"(d) VALVES AND MACHINE TOOLS.—(1) During fiscal years 1989, 1990, and 1991, funds appropriated or otherwise made available to the Department of Defense may not be used to enter into a contract for the procurement of items described in paragraph (2) that are not manufactured in the United States or Canada.

"(2) Items covered by paragraph (1) are the following:

"(A) Powered and non-powered valves in Federal Supply Classes 4810 and 4820 used in piping for naval surface ships and submarines.

"(B) Machine tools in the Federal Supply Classes for metal-working machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448, 3449, 3460, and 3461.

"(3) The Secretary of Defense may waive the requirement of paragraph (1) with respect to the procurement of an item if the Secretary determines that any of the following apply with respect to that item:

"(A) The restriction would cause unreasonable costs or delays to be incurred.

"(B) United States producers of the item would not be jeopardized by competition from a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

Canada.

"(C) Satisfactory quality items manufactured in the United States or Canada are not available.

"(D) The restriction would impede cooperative programs entered into between the Department of Defense and a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

102 STAT. 2018

"(E) The procurement is for an amount less than $25,000 and simplified small purchase procedures are being used.

"(F) The restriction would result in the existence of only one United States or Canadian source for the item.

"(4) The provisions of this section may be renewed with respect to any item by the Secretary of Defense at the end of fiscal year 1991 for an additional two fiscal years if the Secretary determines that a continued restriction on that item is in the national security interest.".

Arms and munitions.

SEC. 823. CRITICAL TECHNOLOGIES PLAN

(a) IN GENERAL.—(1) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2368. Critical technologies plan

"(a) ANNUAL PLAN.—(1) Not later than March 15 of each year, the Under Secretary of Defense for Acquisition, in consultation with the Assistant Secretary of Energy for Defense Programs, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for developing the 20 technologies considered by the Secretary of Defense and the Secretary of Energy to be the technologies most essential to develop in order to ensure the long-term qualitative superiority of United States weapon systems.

"(2) In selecting the technologies to be included in the plan, the Secretary of Defense and the Secretary of Energy shall consider both product technologies and process technologies.

"(3) Such plan shall be submitted in both classified and unclassified form.

"(b) CONTENT OF PLAN.—Each plan submitted under subsection (a) shall include, with respect to each technology included in the plan, the following matters:

"(1) The reasons for selecting such technology.

"(2) The milestone goals for the development of such technology.

"(3) The amounts contained in the budgets of the Department of Defense, the Department of Energy, and other departments and agencies for the support of the development of such technology for the fiscal year beginning in the year in which the plan is submitted.

"(4) A comparison of the positions of the United States and the Soviet Union in the development of such technology.

"(5) The potential contributions that the allies of the United States can make to meet the needs of the alliance for such technology.

"(6) With respect to the development of such technology, a comparison of the relative positions of the United States and other industrialized countries that are prominent in the development of such technology and the extent to which the United States should depend on other countries for the development of such technology.

"(7) The potential contributions that the private sector can be expected to make from its own resources in connection with development of civilian applications for such technology.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2368. Critical technologies plan.". 102 STAT. 2019

(b) FIRST REPORT.—The first report under section 2368 of title 10, United States Code (as added by subsection (a)), shall be submitted in 1989. 10 USC 2368 note.

SEC. 824. DEFENSE MEMORANDA OF UNDERSTANDING

Chapter 148 of title 10, United States Code, as amended by section 821, is further amended by inserting after section 2503 the following new section:

"§ 2504. Defense memoranda of understanding

"In the negotiation and renegotiation of each memorandum of understanding between the Secretary of Defense, acting on behalf of the United States, and one or more foreign countries (or any instrumentality of a foreign country) relating to research, development, or production of defense equipment, the Secretary of Defense shall—

"(1) consider the effect of such proposed memorandum of understanding on the defense industrial base of the United States; and

"(2) regularly solicit and consider information or recommendations from the Secretary of Commerce with respect to the effect on the United States industrial base of such memorandum of understanding.".

SEC. 825. DEPARTMENT OF DEFENSE OFFSET POLICY

(a) FINDINGS.—Congress makes the following findings: 10 USC 2505 note.

(1) Many contracts entered into by United States firms for the supply of weapon systems or defense-related items to foreign countries and foreign firms are subject to contractual arrangements under which United States firms must agree—

(A) to have a specified percentage of work under, or monetary amount of, the contract performed by one or more foreign firms;

(B) to purchase a specified amount or quantity of unrelated goods or services from domestic sources of such foreign countries; or

(C) to invest a specified amount in domestic businesses of such foreign countries.

Such contractual arrangements, known as "offsets", are a component of international trade and could have an impact on United States defense industry opportunities in domestic and foreign markets.

(2) Some United States contractors and subcontractors may be adversely affected by such contractual arrangements.

(3) Many contracts which provide for or are subject to offset arrangements require, in connection with such arrangements, the transfer of United States technology to foreign firms.

(4) The use of such transferred technology by foreign firms in conjunction with foreign trade practices permitted under the trade policies of the countries of such firms can give foreign firms a competitive advantage against United States firms in world markets for products using such technology.

(5) A purchase of defense equipment pursuant to an offset arrangement may increase the cost of the defense equipment to the purchasing country and may reduce the amount of defense equipment that a country may purchase.

102 STAT. 2020

(6) The exporting of defense equipment produced in the United States is important to maintain the defense industrial base of the United States, lower the unit cost of such equipment to the Department of Defense, and encourage the standardized utilization of United States equipment by the allies of the United States.

(b) AMENDMENT TO TITLE 10.—Chapter 148 of title 10, United States Code, as amended by sections 821 and 824, is further amended by inserting after section 2504 the following new section:

President of U.S.

"§ 2505. Offset policy; notification

"(a) ESTABLISHMENT OF OFFSET POLICY.—The President shall establish, consistent with the requirements of this section, a comprehensive policy with respect to contractual offset arrangements in connection with the purchase of defense equipment or supplies which addresses the following:

"(1) Transfer of technology in connection with offset arrangements.

"(2) Application of offset arrangements, including cases in which United States funds are used to finance the purchase by a foreign government.

"(3) Effects of offset arrangements on specific subsectors of the industrial base of the United States and for preventing or ameliorating any serious adverse effects on such subsectors.

"(b) TECHNOLOGY TRANSFER.—(1) No official of the United States may enter into a memorandum of understanding or other agreement with a foreign government that would require the transfer of United States defense technology to a foreign country or a foreign firm in connection with a contract that is subject to an offset arrangement if the implementation of such memorandum or agreement would significantly and adversely affect the defense industrial base of the United States and would result in a substantial financial loss to a United States firm.

"(2) Paragraph (1) shall not apply in the case of a memorandum of understanding or agreement described in paragraph (1) if the Secretary of Defense, in consultation with the Secretary of Commerce and the Secretary of State, determines that a transfer of United States defense technology pursuant to such understanding or agreement will result in strengthening the national security of the United States and so certifies to Congress.

"(3) If a United States firm is required under the terms of a memorandum of understanding, or other agreement entered into by the United States with a foreign country, to transfer defense technology to a foreign country, the United States firm may protest the determination to the Secretary of Defense on the grounds that the

transfer of such technology would adversely affect the defense industrial base of the United States and would result in substantial financial loss to the protesting firm. The Secretary of Defense, in consultation with the Secretary of Commerce and the Secretary of State, shall make the final determination of the validity of the protesting firm's claim. Claims.

"(c) NOTIFICATION REGARDING OFFSETS.—If at any time a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset arrangement exceeding $50,000,000 in value, such firm shall notify the Secretary of Defense of the proposed sale. Notification shall be made under this subsection in accordance with regulations prescribed by the Secretary of Defense in consultation with the Secretary of Commerce. Regulations.

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"(d) DEFINITIONS.—In this section:

"(1) The term 'United States firm' means a business entity that performs substantially all of its manufacturing, production, and research and development activities in the United States.

"(2) The term 'foreign firm' means a business entity other than a United States firm.".

(c) NEGOTIATIONS.—(1) The President shall enter into negotiations with foreign countries that have a policy of requiring an offset arrangement in connection with the purchase of defense equipment or supplies from the United States. The negotiations should be conducted with a view to achieving an agreement with the countries concerned that would limit the adverse effects that such arrangements have on the defense industrial base of each such country. 10 USC 2505 note.

(2) Every effort shall be made to achieve such agreements within two years after the date of the enactment of this Act.

(d) REPORTS.—(1) Not later than November 15, 1988, the President shall submit to Congress a comprehensive report on contractual offset arrangements required of United States firms for the supply of weapon systems or defense-related items to foreign countries or foreign firms. Such report shall include, at a minimum, the following:

(A) An analysis of the amount and type of contractual offsets required of United States firms by the governments of foreign countries or by foreign firms.

(B) An assessment of the benefits for and costs to United States manufacturers of defense products at all tiers that result from requirements of foreign governments for contractual offset arrangements in the case of products procured from United States firms.

(C) An assessment of the benefits for and the costs to United States manufacturers of defense products at all tiers that would result from restriction of the ability of foreign governments or foreign firms to require contractual offsets in the case of defense products procured from United States firms.

(D) An assessment of the benefits and costs of a United States policy that requires reciprocal offsets in the procurement of defense products from those countries whose governments have a policy of requiring contractual offsets in the case of defense products procured from United States firms.

(E) An assessment of the impact that elimination of contractual offset requirements in international sales of defense products would have on the national security of the United States.

(F) Recommendations for a national policy with respect to contractual offset arrangements.

(G) A preliminary discussion of the actions referred to in paragraph (2).

(2) Not later than March 15, 1990, the President shall transmit to Congress a report containing a discussion of appropriate actions to be taken by the United States with respect to purchases from United States firms by a foreign country (or a firm of that country)

when that country or firm requires an offset arrangement in connection with the purchase of defense equipment or supplies in favor of such country. The report shall include a discussion of the following
102 STAT. 2022 possible actions:

(A) A requirement for an offset in favor of the United States or United States firms in any case in which the Department of Defense or any other department or agency of the United States purchases goods from such foreign country or a firm of such country.

(B) A demand for offset credits from such foreign country to be used, to the extent practicable, to meet offset obligations of United States firms to such foreign country or to a firm of such country.

(C) A reduction in assistance furnished such foreign country by the United States.

(D) A requirement for alternative equivalent advantages in the case of any such foreign country or a firm of such country if the United States does not purchase a sufficient volume of goods from such country or firm for a requirement described in subparagraph (A) to be effective.

(3) The President shall report to Congress at least once each year, for a period of 4 years, on the progress of the negotiations referred to in subsection (c). The first such report shall be submitted not later than one year after the date of the enactment of this Act.

(4) In this subsection, the terms "United States firm" and "foreign firm" have the same meanings as are provided in section 2505(d) of title 10, United States Code, as added by subsection (b).

SEC. 826. ALLOWABILITY OF COSTS TO PROMOTE THE EXPORT OF DEFENSE PRODUCTS

(a) IN GENERAL.—Section 2324(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

Regulations.

"(5) The regulations shall provide that costs to promote the export of products of the United States defense industry, including costs of exhibiting or demonstrating products, shall be allowable to the extent that such costs—

"(A) are allocable, reasonable, and not otherwise unallowable;

"(B) with respect to the activities of the business segment to which such costs are being allocated, are determined by the Secretary of Defense to be likely to result in future cost advantages to the United States; and

"(C) with respect to a business segment which allocates to Department of Defense contracts $2,500,000 or more of such costs in any fiscal year of such business segment, are not in excess of the amount equal to 110 percent of such costs incurred by such business segment in the previous fiscal year.".

10 USC 2324 note.

(b) REGULATIONS.—The Secretary of Defense shall prescribe final regulations under paragraph (5) of section 2324(f) of title 10, United States Code (as added by subsection (a)), not later than 90 days after the date of the enactment of this Act. Such regulations shall apply with respect to costs referred to in such paragraph that are incurred by a Department of Defense contractor (or a subcontractor of such a contractor) on or after the first day of the contractor's (or subcontractor's) first fiscal year that begins on or after the date on which such final regulations are prescribed.

Effective date.

10 USC 2324 note.

(c) REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States and the Inspector General of the Department of Defense shall each submit to the Committees on Armed Services of the Senate and
102 STAT. 2023 House of Representatives a report that includes the following:

(1) An assessment of whether the regulations required by section 2324(f)(5) of title 10, United States Code (as added by subsection (a)), provide the appropriate incentives to stimulate exports by the United States defense industry and provide cost savings to the United States.

(2) An assessment of whether such regulations provide appropriate criteria to ensure that costs allowed are reasonably likely to provide future cost savings to the United States.

(d) TERMINATION.—Section 2324(f)(5) of title 10, United States Code (as added by subsection (a)), shall cease to be effective three years after the date of the enactment of this Act. 10 USC 2324 note.

PART C—POLICIES RELATING TO DEFENSE CONTRACTORS

SEC. 831. ADDITIONAL PROHIBITIONS ON PERSONS CONVICTED OF FELONIES RELATED TO DEFENSE CONTRACTS

(a) IN GENERAL.—Section 2408(a) of title 10, United States Code, is amended to read as follows:

"(a) PROHIBITION.—(1) An individual who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from each of the following: Fraud.

"(A) Working in a management or supervisory capacity on any defense contract.

"(B) Serving on the board of directors of any defense contractor.

"(C) Serving as a consultant to any defense contractor.

"(D) Being involved in any other way, as determined under regulations prescribed by the Secretary of Defense, with a defense contract. Regulations.

"(2) Except as provided in paragraph (3), the prohibition in paragraph (1) shall apply for a period, as determined by the Secretary of Defense, of not less than five years after the date of the conviction.

"(3) The prohibition in paragraph (1) may apply with respect to an individual for a period of less than five years if the Secretary determines that the five-year period should be waived in the interests of national security. If the five-year period is waived, the Secretary shall submit to Congress a report stating the reasons for the waiver.". Reports.

(b) EFFECTIVE DATE.—Section 2408(a) of title 10, United States Code, as amended by subsection (a), shall apply with respect to individuals convicted after the date of the enactment of this Act. 10 USC 2408 note.

SEC. 832. LIMITATION ON ALLOWABILITY OF COSTS OF CONTRACTORS INCURRED IN CERTAIN PROCEEDINGS

Law enforcement and crime.

(a) LIMIT ON COSTS.—Section 2324(e) of title 10, United States Code, is amended—

(1) by adding at the end of paragraph (1), as amended by section 322(a), the following:

"(N) Except as provided in paragraph (2), costs incurred in connection with any civil, criminal, or administrative action brought by the United States that results in a determination that a contractor has violated or failed to comply with any Federal law or regulation if the action results in any of the following:

"(i) In the case of a criminal action, a conviction (including a conviction pursuant to a plea of nolo contendere). 102 STAT. 2024

"(ii) In the case of a civil or administrative action, (I) a determination by the Secretary of Defense that the violation or failure to comply was knowing or willful, and (II) the imposition of a monetary penalty.

"(iii) A final decision by an appropriate official of the Department of Defense to debar or suspend the contractor or to rescind, void, or terminate a contract awarded to such contractor if such decision is based on a determination by the Secretary of Defense that the violation or failure to comply was knowing or willful.";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) (as amended by paragraph (1)) the following:

"(2) If a civil, criminal, or administrative action referred to in paragraph (1)(N) is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the contractor's costs that are otherwise not allowable under paragraph (1)(N) may be allowed to the extent provided in such agreement.".

10 USC 2324 note.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement section 2324(e)(1)(N) of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

10 USC 2324 note.

SEC. 833. AIR TRAVEL EXPENSES OF DEFENSE CONTRACTOR PERSONNEL

(a) AIR FARE DISCOUNT AGREEMENTS.—The Administrator of General Services shall enter into negotiations with commercial air carriers with a view to achieving agreements that permit personnel of contractors who are traveling solely in the performance of covered contracts to be transported by such carriers at the same discount air passenger transportation rates as such carriers charge for travel by Federal Government employees traveling at Government expense.

Regulations.

(b) ALLOWABLE COSTS.—Not later than 120 days after the first agreement goes into effect between the Administrator of General Services and a commercial air carrier under subsection (a), the Secretary of Defense shall prescribe regulations that provide that costs for travel by commercial air carrier by an employee of a defense contractor that exceed the air passenger transportation rates established under the agreement are not allowable costs under section 2324 of title 10, United States Code, under a covered contract if—

(1) the rate was available; and

(2) travel could have reasonably been performed under the conditions required by the air carrier to qualify for such rate.

(c) COVERED CONTRACT.—In this section, the term "covered contract" has the meaning given such term by section 2324(k) of title 10, United States Code.

(d) EXPIRATION.—This section shall cease to be effective three years after the date of the enactment of this Act.

SEC. 834. STANDARDS FOR CONTRACTOR INVENTORY ACCOUNTING SYSTEMS

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

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Regulations.

"§ 2410b. Contractor inventory accounting systems: standards

"The Secretary of Defense shall prescribe in regulations—

"(1) standards for inventory accounting systems used by contractors under contract with the Department of Defense; and

"(2) appropriate certification and enforcement requirements with respect to such standards.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410b. Contractor inventory accounting systems: standards.".

10 USC 2410b note.

(b) REGULATIONS.—(1) The Secretary of Defense shall prescribe the regulations required by paragraph (1) of section 2410b of title 10, United States Code, as added by subsection (a), not later than 30 days after the date of the enactment of this Act.

(2) The Secretary of Defense shall prescribe the regulations required by paragraph (2) of section 2410b of title 10, United States Code, as added by subsection (a), not later than 180 days after the date of the enactment of this Act.

SEC. 835. EQUAL EMPLOYMENT OPPORTUNITIES RELATING TO AN ARMY CONTRACT

No funds appropriated pursuant to any authorization in this Act or in any previous Act may be expended or obligated for the

performance of contract number DA AJ09-88-C-A093 by a contractor outside the United States unless the Secretary of the Army secures a commitment from the contractor that it will support equal employment opportunities for all individuals irrespective of race, color, religion, sex, or national origin in its employment practices.

PART D—MISCELLANEOUS

SEC. 841. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

(a) LIMITATION.—Section 2414 of title 10, United States Code, is amended to read as follows:

"§ 2414. Limitation

State and local governments.

"(a) IN GENERAL.—The value of the assistance furnished by the Secretary to any eligible entity to carry out a procurement technical assistance program under a cooperative agreement under this chapter during any fiscal year may not exceed—

"(1) in the case of a program operating on a Statewide basis, $300,000; or

"(2) in the case of a program operating on less than a Statewide basis, $150,000.

Regulations.

"(b) DETERMINATIONS ON SCOPE OF OPERATIONS.—A determination of whether a procurement technical assistance program is operating on a Statewide basis or on less than a Statewide basis shall be made in accordance with regulations prescribed by the Secretary of Defense.".

(b) PROCUREMENT TECHNICAL ASSISTANCE FOR INDIAN TRIBAL ORGANIZATIONS.—(1) Section 807(a)(2) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1128) is amended by striking out "for fiscal year 1988," and inserting in lieu thereof "for fiscal years 1988 and 1989,".

(2) Section 2411(1)(D) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof 102 STAT. 2026

whether or not such economic enterprise is organized for-profit or nonprofit purposes.".

SEC. 842. PRODUCT EVALUATION

(a) IN GENERAL.—Chapter 139 of title 10, United States Code, as amended by section 823, is further amended by adding at the end the following new section:

10 USC 2369.

"§ 2369. Product evaluation activity

"(a) ESTABLISHMENT.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish a program for the supervision and coordination of product evaluation activities within the Department of Defense.

"(b) CONDUCT OF PRODUCT EVALUATIONS.—(1) The Secretary of each military department and the head of each Defense Agency may, subject to supervision and coordination by the Under Secretary of Defense for Acquisition, establish and conduct appropriate product evaluation activities.

"(2) The purpose of each product evaluation activity established under paragraph (1) is to evaluate products developed by private industry independent of any contract or other arrangement with the United States in order to determine the utility of such products to the Department of Defense.

"(c) COST SHARING.—As a condition to conducting an evaluation of any product under this section, the producer of the product shall be required to pay one half of the cost of conducting such evaluation. For product development proposed by a small business concern (within the meaning of section 3 of the Small Business Act (15 U.S.C. 632)), the Secretary of Defense may pay up to 85 percent of the cost of product evaluation if the small business concern agrees to a not-for-profit contract.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 823, is further amended by adding at the end the following new item:

"2369 Product evaluation activity".

SEC. 843. CONTRACT GOAL FOR MINORITIES IN PRINTING-RELATED SERVICES

44 USC 502 note.

(a) TEST PROGRAM.—The Public Printer shall establish and, during fiscal years 1989 and 1990, carry out a test program for increasing its award of contracts to small and disadvantaged businesses for the printing, binding, and related services needed by the Department of Defense. The program shall have a goal of procuring in each such fiscal year from such businesses printing, binding, and related services equivalent to not more than 5 percent of the value of the printing, binding, and related services which were procured in the preceding fiscal year by the Government Printing Office from non-Government sources for the Department of Defense. The Public Printer may use such procurement procedures as he considers necessary to facilitate achievement of such goal

(b) COVERED ENTITIES.—In this section, the term "small and disadvantaged businesses" means the small business concerns, historically Black colleges and universities, and minority institutions described in section 1207(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973).

(c) ENFORCEMENT.—Any person who, for the purpose of securing a contract under subsection (a), misrepresents the status of any concern or person as a small business concern referred to in subsection (b), is subject to the penalties set forth in section 1207(f) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3974).

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(d) SECTION 1207 GOALS.—For the purpose of determining whether the Department of Defense has attained the goals set forth in section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973), the Secretary of Defense may count any procurements by the Public Printer in the program established under subsection (a).

SEC. 844. EXTENSION OF CONTRACT GOAL FOR SMALL AND DISADVANTAGED BUSINESSES

10 USC 2301 note.

Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973) is amended in subsections (a) and (h) by striking out "and 1989" and inserting in lieu thereof "1989, and 1990".

SEC. 845. DEADLINE FOR CERTAIN SMALL BUSINESS REGULATIONS

Section 3(a)(4)(C) of the Small Business Act (15 U.S.C. 632) is amended by inserting at the end the following: "Such regulations shall apply with respect to contracts entered into on or after October 1, 1988.".

SEC. 846. SAFEGUARDING OF MILITARY WHISTLEBLOWERS

(a) MILITARY WHISTLEBLOWER PROTECTION.—(1) Section 1034 of title 10, United States Code, is amended to read as follows:

"§ 1034. Communicating with a Member of Congress or Inspector General; prohibition of retaliatory personnel actions

"(a) RESTRICTING COMMUNICATIONS WITH MEMBERS OF CONGRESS AND INSPECTOR GENERAL PROHIBITED.—(1) No person may restrict a member of the armed forces in communicating with a Member of Congress or an Inspector General.

"(2) Paragraph (1) does not apply to a communication that is unlawful.

"(b) PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.—No person may take (or threaten to take) an unfavorable personnel action, or withhold (or threaten to withhold) a favorable personnel action, as a reprisal against a member of the armed forces for

making or preparing a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted. Any action prohibited by the preceding sentence (including the threat to take any action and the withholding or threat to withhold any favorable action) shall be considered for the purposes of this section to be a personnel action prohibited by this subsection.

"(c) INSPECTOR GENERAL INVESTIGATION OF CERTAIN ALLEGATIONS.—(1) If a member of the armed forces submits to the Inspector General of the Department of Defense (or the Inspector General of the Department of Transportation, in the case of a member of the Coast Guard) an allegation that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in paragraph (2), the Inspector General shall expeditiously investigate the allegation.

"(2) A communication described in this paragraph is a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted in which the member of 102 STAT. 2028
the armed forces makes a complaint or discloses information that the member reasonably believes constitutes evidence of—

"(A) a violation of a law or regulation; or

"(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

"(3) The Inspector General is not required to make an investigation under paragraph (1) in the case of an allegation made more than 60 days after the date on which the member becomes aware of the personnel action that is the subject of the allegation.

"(4) If the Inspector General has not already done so, the Inspector General shall commence a separate investigation of the information that the member believes evidences wrongdoing as described in subparagraph (A) or (B) of paragraph (2). The Inspector General is not required to make such an investigation if the information that the member believes evidences wrongdoing relates to actions which took place during combat.

"(5) Not later than 30 days after completion of an investigation Reports.
under this subsection, the Inspector General shall submit a report on the results of the investigation to the Secretary of Defense and the member of the armed forces concerned. In the copy of the report submitted to the member, the Inspector General may exclude any information that would not otherwise be available to the member under section 552 of title 5.

"(6) If, in the course of an investigation of an allegation under this section, the Inspector General determines that it is not possible to submit the report required by paragraph (5) within 90 days after the date of receipt of the allegation being investigated, the Inspector General shall provide to the Secretary of Defense and to the member making the allegation a notice—

"(A) of that determination (including the reasons why the report may not be submitted within that time); and

"(B) of the time when the report will be submitted.

"(7) The report on the results of the investigation shall contain a thorough review of the facts and circumstances relevant to the allegation and the complaint or disclosure and shall include documents acquired during the course of the investigation, including summaries of interviews conducted. The report may include a recommendation as to the disposition of the complaint.

"(d) CORRECTION OF RECORDS WHEN PROHIBITED ACTION TAKEN.—(1) A board for the correction of military records acting under section 1552 of this title, in resolving an application for the correction of records made by a member or former member of the armed forces who has alleged a personnel action prohibited by subsection (b), on the request of the member or former member or otherwise, may review the matter.

"(2) In resolving an application described in paragraph (1), a correction board—

"(A) shall review the report of the Inspector General submitted under subsection (c)(5);

"(B) may request the Inspector General to gather further evidence; and

"(C) may receive oral argument, examine and cross-examine witnesses, take depositions, and, if appropriate, conduct an evidentiary hearing.

"(3) If the board elects to hold an administrative hearing, the member or former member who filed the application described in paragraph (1)—

"(A) may be provided with representation by a judge advocate if—

"(i) the Inspector General, in the report under subsection (c)(5), finds that there is probable cause to believe that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in subsection (c)(2);

"(ii) the Judge Advocate General concerned determines that the case is unusually complex or otherwise requires judge advocate assistance to ensure proper presentation of the legal issues in the case; and

"(iii) the member is not represented by outside counsel chosen by the member; and

"(B) may examine witnesses through deposition, serve interrogatories, and request the production of evidence, including evidence contained in the investigatory record of the Inspector General but not included in the report submitted under subsection (c)(5).

"(4) The Secretary concerned shall issue a final decision with respect to an application described in paragraph (1) within 180 days after the application is filed. If the Secretary fails to issue such a final decision within that time, the member or former member shall be deemed to have exhausted the member's or former member's administrative remedies under section 1552 of this title.

"(5) The Secretary concerned shall order such action, consistent with the limitations contained in sections 1552 and 1553 of this title, as is necessary to correct the record of a personnel action prohibited by subsection (b).

"(6) If the Board determines that a personnel action prohibited by subsection (b) has occurred, the Board may recommend to the Secretary concerned that the Secretary take appropriate disciplinary action against the individual who committed such personnel action.

"(e) REVIEW BY SECRETARY OF DEFENSE.—Upon the completion of all administrative review under subsection (d), the member or former member of the armed forces who made the allegation referred to in subsection (c)(1), if not satisfied with the disposition of the matter, may submit the matter to the Secretary of Defense. The Secretary shall make a decision to reverse or uphold the decision of the Secretary of the military department concerned in the matter within 90 days after receipt of such a submittal.

"(f) POST-DISPOSITION INTERVIEWS.—After disposition of any case under this section, the Inspector General shall, whenever possible, conduct an interview with the person making the allegation to determine the views of that person on the disposition of the matter.

"(g) REGULATIONS.—The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to carry out this section.

"(h) DEFINITIONS.—In this section:

"(1) The term 'Member of Congress' includes any Delegate or Resident Commissioner to Congress.

"(2) The term 'Inspector General' means—

"(A) an Inspector General appointed under the Inspector General Act of 1978; and 102 STAT. 2030

"(B) an officer of the armed forces assigned or detailed under regulations of the Secretary concerned to serve as an Inspector General at any command level in one of the armed forces.".

(2) The item relating to such section in the table of sections at the beginning of chapter 53 of such title is amended to read as follows:

"1034. Communicating with a Member of Congress or Inspector General; prohibition of retaliatory personnel actions.".

(b) DEADLINE FOR REGULATIONS.—The Secretary of Defense and the Secretary of Transportation shall prescribe the regulations required by subsection (g) of section 1034 of title 10, United States Code, as amended by subsection (a), not later than 180 days after the date of the enactment of this Act. 10 USC 1034 note.

(c) REPORT.—(1) The Inspector General of the Department of Defense (and the Inspector General of the Department of Transportation with respect to the Coast Guard) shall submit to Congress a report on the activities of the Inspector General under section 1034 of title 10, United States Code, as amended by subsection (a). The report shall include, in the case of each case handled by the Inspector General under that section, a description of— 10 USC 1034 note.

(A) the nature of the allegation described in subsection (c) of that section;

(B) the evaluation and recommendation of the Inspector General with respect to the allegation;

(C) any action of the appropriate board for the correction of military records with respect to the allegation;

(D) if the allegation is determined to be meritorious, any corrective action taken; and

(E) the views of the member or former member of the armed forces making the allegation (determined on the basis of the interview under subsection (f) of that section) on the disposition of the case.

(2) The Inspector General shall include with the report under this subsection copies of the individual case reports for each such allegation.

(3) The report under this subsection shall be submitted not later than February 1, 1990.

(d) EFFECTIVE DATE.—The amendment to section 1034 of title 10, United States Code, made by subsection (a)(1), shall apply with respect to any personnel action taken (or threatened to be taken) on or after the date of the enactment of this Act as a reprisal prohibited by subsection (b) of that section. 10 USC 1034 note.

TITLE IX—MATTERS RELATING TO ARMS CONTROL

SEC. 901. SENSE OF CONGRESS ON EXPANDING CONFIDENCE-BUILDING MEASURES

(a) FINDINGS.—Congress makes the following findings:

(1) Approximately two years have passed since the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) adjourned in Stockholm following the adoption of measures designed to increase openness and predictability of military activities in Europe. 102 STAT. 2031

(2) To date, there have been seven formal observations and challenge inspections which have been conducted in accordance with the Stockholm agreements.

(3) The military leaders of the North Atlantic Treaty Organization have concluded that the Stockholm observations and inspections have positively contributed to an improved understanding of Warsaw Pact forces and capabilities.

(4) The Conventional Stability Talks (CST), which may begin before the end of 1988, will likely require careful and potentially prolonged negotiation.

(5) New negotiations will also begin under the auspices of the Conference on Security and Cooperation in Europe (CSCE) as a follow-on to the Stockholm conference.

(6) The confidence-building measures established at Stockholm could, if expanded, contribute significantly to the success of the CDE follow-on conference and also to the establishment of a procedural framework for verifying a future CST agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should give high priority to developing, in coordination with the North Atlantic Treaty Organization allies of the United States, stabilizing and verifiable proposals for expanding the regime of confidence-building measures in conjunction with the follow-on to the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) and the new Conventional Stability Talks (CST).

SEC. 902. SENSE OF CONGRESS ON START TALKS

It is the sense of Congress that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the strategic arms reduction talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force, and

(2) should not prohibit or limit the deployment of non-nuclear cruise missiles.

SEC. 903. SENSE OF CONGRESS CONCERNING ROLE OF CONGRESS IN ARMS CONTROL AND DEFENSE POLICIES

It is the sense of Congress—

(1) that Congress, in exercising its authority under the Constitution "to raise and support Armies" and "provide and maintain Navies" and, in the case of the Senate, to advise and consent to the ratification of treaties, has a role to play in formulating arms control and defense policies of the United States, but

(2) that Congress, in exercising that authority, should not usurp, undermine, or interfere with the authority of the President under the Constitution to negotiate and implement treaties, especially in the case of treaties which affect arms control and defense policies of the United States.

SEC. 904. SENSE OF CONGRESS ON THE FIVE-YEAR ABM TREATY REVIEW

102 STAT. 2032

(a) FINDINGS.—Congress makes the following findings:

(1) The Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, With Associated Protocol (hereinafter in this section referred to as the "ABM Treaty" or the "Treaty") in Article XIV, Paragraph 2, reads as follows: "Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.".

(2) Such Treaty entered into force on October 3, 1972, and the third five-year anniversary date specified for the conduct of the review contemplated in the Treaty, therefore, was October 3, 1987.

(3) As a fundamental principle of the canons of legal construction, a specified number of years after a specific and determinable date means the specified anniversary of such date and therefore the third five-year review of the ABM Treaty should have begun on or about October 3, 1987.

(4) The Parties to the Treaty have not met as required by the Treaty because the United States refused to meet on the date specified in the Treaty for such meeting (October 3, 1987) and has refused since such date to propose a date for the meeting.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the President should, without any further delay, propose an early date to conduct the overdue five-year review of the ABM Treaty. The President shall inform Congress of the results of that review immediately after it takes place. President of U.S.

SEC. 905. REVISION OF ANNUAL REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS President of U.S.

(a) AMENDMENT TO PUBLIC LAW 99-145.—The text of section 1002 of the Department of Defense Authorization Act, 1986 (22 U.S.C. 2592a), is amended to read as follows:

"(a) ANNUAL REPORT.—Not later than December 1 of each year, the President shall submit to Congress a report containing the findings of the President with respect to the compliance of the Soviet Union with its arms control commitments and any additional information necessary to keep Congress currently informed.

"(b) MATTERS TO BE INCLUDED.—The President shall specifically include in each such report the following:

"(1) A summary of the current status of all arms control agreements in effect between the United States and the Soviet Union.

"(2) An assessment of all violations by the Soviet Union of such agreements and the risks such violations pose to the national security of the United States and its allies.

"(3) A net assessment of the aggregate military significance of all such violations.

"(4) A statement of the compliance policy of the United States with respect to violations by the Soviet Union of those agreements.

"(5) What actions, if any, the President has taken or proposes to take to bring the Soviet Union into compliance with its commitments under those agreements.

"(c) CONTINGENT ADDITIONAL INFORMATION.—If the President in any second consecutive report submitted to Congress under this section reports that the Soviet Union is not in full compliance with all arms control agreements between the United States and the Soviet Union, the President shall include in such report an assessment of what actions are necessary to compensate for such violations. 102 STAT. 2033

"(d) CLASSIFICATION OF REPORTS.—Each report under this section shall be submitted in both classified and unclassified versions.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect beginning with the report to be submitted under section 1002 of the Department of Defense Authorization Act, 1986, in 1990. 22 USC 2592a note.

SEC. 906. ANNUAL REPORT ON ARMS CONTROL STRATEGY President of U.S. 22 USC 2592b.

(a) IN GENERAL.—The President shall submit to Congress each year, not later than December 1, a report containing a comprehensive discussion and analysis of the arms control strategy of the United States. The President shall include in each such report the following:

(1) A description of the nature and sequence of the future arms control efforts of the United States.

(2) A net assessment of the current effects of arms control agreements on the status of, and trends in, the military balance between the United States and the Soviet Union and between the North Atlantic Treaty Organization (NATO) and the Warsaw Pact.

(3) A comprehensive data base on the military balance of forces of the United States and the Soviet Union, and the balance of forces of NATO and the Warsaw Pact countries, that

are affected by arms control agreements in existence as of the time of the report between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an explanation of the methodology used to analyze the effects on such forces.

(4) A net assessment of the effect that proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact would likely have on United States force plans and contingency plans, including an assessment of the effect that such proposed agreements would have on the risks and costs to the United States.

(5) An assessment of the effect that proposed treaty subceilings, asymmetries, and other factors or qualifications affecting a treaty or arms control proposal would have on the military balance between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an assessment of how such factors increase deterrence and reduce the risk and cost of war.

(6) A statement of the strategy the United States and NATO will use to verify and deter noncompliance with proposed arms control treaties between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(7) A discussion of the extent to which and the manner in which the United States intends to consult with its allies regarding proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(8) A discussion of how the United States proposes to tailor its defense structure in order to ensure that the national security can be preserved with or without arms control agreements.

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(b) EXPLANATION OF METHODOLOGY.—In reporting on the current effect of arms control agreements on the status of, and trends in, the military balance of power between the United States and the Soviet Union and between NATO and the Warsaw Pact (required under paragraphs (2) and (3) of subsection (a)), the President shall—

(1) specify the methodology used in analyzing the military balance between the United States and the Soviet Union and express the results of such analyses in terms of (A) static comparisons, and (B) comparisons that include dynamic factors; and

(2) discuss all major scenarios, assumptions, and contingencies, including political confrontation, full-scale war, and serious confrontations not involving full-scale war.

(c) FORM OF REPORT.—The President shall submit such report in both classified and unclassified form.

President of U.S.

SEC. 907. REPORT ON ANTIBALLISTIC MISSILE CAPABILITIES AND ACTIVITIES OF THE SOVIET UNION

(a) STUDY.—The President shall conduct a study regarding the antiballistic missile capability and activities of the Soviet Union. In conducting the study, the President shall assess each of the following:

(1) The military capabilities and significance of the extensive network of large-phased array radars of the Soviet Union.

(2) Whether the Soviet Union is developing or producing mobile or transportable engagement radars in violation of the 1972 Antiballistic Missile Treaty.

(3) The ability of the Soviet Union to develop an effective exoatmospheric antiballistic missile defense without using widespread deployments of traditional engagement radars.

(4) The ability of air defense interceptor missiles of the Soviet Union, now and in the future, to destroy warheads of ballistic missiles in flight.

(5) Whether silos or other hardened facilities of the Soviet Union located outside of the existing antiballistic missile site permitted near Moscow under the terms of the 1972 Antiballis-

tic Missile Treaty are or could be associated with antiballistic missile defenses not permitted under that Treaty.

(6) Whether the Soviet Union is developing terminal antiballistic missile defenses.

(7) Whether the existing antiballistic missile site near Moscow that is permitted under the terms of that Treaty conceals or could conceal development, testing, or deployment by the Soviet Union of a widespread antiballistic missile system.

(8) Activities of the Soviet Union regarding boost-phase intercepts of ballistic missiles.

(9) The status of laser programs, particle-beam programs, and other advanced technology programs of the Soviet Union comparable to programs conducted by the United States under the Strategic Defense Initiative.

(10) The consequences for the United States of a successful effort by the Soviet Union to deploy an effective nationwide or limited antiballistic missile system.

(b) ASSESSMENT OF ABILITY OF UNITED STATES TO COUNTER A SOVIET ABM SYSTEM.—In conducting the study required by subsection (a), the President shall also assess the ability of the United States to counter effectively an effective antiballistic missile system deployed by the Soviet Union. Such assessment shall consider both the deployment by the Soviet Union of a nationwide, and of a limited, antiballistic missile system. In assessing the ability of the United States to counter effectively such a system, the President— 102 STAT. 2035

(1) shall consider the ability of the United States to modify (A) existing strategic offensive forces (including modifications involving the development of additional penetration aids), and (B) current strategic doctrine and tactics; and

(2) shall consider whether the actions of the United States described in paragraph (1) could be accomplished over the same period of time that the Soviet Union would require to deploy such an antiballistic missile system.

(c) REPORT.—Not later than January 1, 1989, the President shall submit to Congress a report, in both a classified and an unclassified version, specifying the results of the study conducted pursuant to this section. The report shall include such recommendations as the President considers appropriate, including recommendations with regard to maintaining the deterrent value of the strategic forces of the United States in light of the antiballistic missile capability and activities of the Soviet Union described in the report. Classified information. Public information.

SEC. 908. ANALYSIS OF ALTERNATIVE STRATEGIC NUCLEAR FORCE POSTURES FOR THE UNITED STATES UNDER A POTENTIAL START TREATY

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and the Soviet Union are currently engaged in talks regarding the reduction of strategic nuclear arms.

(2) Such talks could result in a treaty requiring deep reductions in the strategic forces of the United States.

(3) Any such Strategic Arms Reduction Treaty (START) cannot be ratified without the advice and consent of the Senate.

(4) Any such START Treaty should result in a stable balance of strategic forces between the United States and the Soviet Union which enhances the security of the United States.

(5) Congress should provide funds for the forces permitted under such a treaty that are required to ensure the stability of the force balance under such a treaty.

(6) Congress faces critical resource choices for fiscal year 1989 and subsequent fiscal years, and the resource choices made by Congress for those years could substantially influence the strategic force posture of the United States in the period after such a treaty goes into effect.

(b) PRESIDENTIAL REPORT.—Before entering into any Strategic Arms Reduction Treaty or other agreement with the Soviet Union for the reduction of strategic arms, but not later than September 15, 1988, the President shall submit to Congress a comprehensive report on the implications such a treaty or agreement might have on the strategic force postures of the United States during the 1990s. The report shall include the following:

(1) A description of alternative force postures that might be permitted for the United States under such an arms reduction agreement, including the posture recommended by the President.

(2) The estimated costs, over at least a seven-year period, associated with each alternative force posture.

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(3) The damage limitation capability, the survivability, and the retaliatory potential of such force posture, and the implications for strategic stability, assessed with regard to the likely force postures of the Soviet Union under such an agreement and the first-strike potential of such force postures.

(4) The likely effect of a breakout by the Soviet Union from such an arms control agreement on the survivability and of the force posture of the United States under such an agreement recommended by the President under paragraph (1).

President of U.S. Classified information. Public information.

(c) FORM OF REPORT.—The President shall submit the report under subsection (b) in both classified and unclassified form.

SEC. 909. ON-SITE INSPECTION AGENCY

Classified information. Public information.

(a) REPORT REQUIREMENTS.—(1) Not later than six months after the date of the enactment of this Act, the officers named in paragraph (2) shall each submit to the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate an unclassified report, with classified annexes as necessary, on the responsibility of each such officer for the monitoring and verification of arms control agreements. Each such report—

(A) shall address specifically any responsibility the officer submitting the report has with respect to on-site inspections (whether inspections of facilities of the United States or inspections of facilities of another party to the agreement); and

(B) shall set forth the organizational elements of each department or agency over which the officer submitting the report has jurisdiction which have functions related to the monitoring or verification of arms control agreements.

(2) Officers referred to in paragraph (1) are the following:

(A) The Secretary of Defense.

(B) The Secretary of State.

(C) The Director of Central Intelligence.

(D) The Director of the United States Arms Control and Disarmament Agency.

(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall—

(1) describe in detail the monitoring and verification activities carried out with respect to the INF Treaty,

(2) evaluate the effectiveness with which these functions have been implemented, and

(3) include recommendations for any future organizational or policy changes that may be necessary in view of the experience of implementing the INF Treaty.

(c) INF TREATY DEFINED.—For purposes of subsection (b), the term "INF Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington on December 9, 1987).

(d) BUDGET REQUESTS.—Any request submitted to Congress by the Executive Branch for authorization of appropriations for the On-Site Inspection Agency for any fiscal year shall, as a separate activity, provide details of all funding and of all military and civilian personnel requested for that Agency for that fiscal year, including the number of such personnel of the Department of Defense and other agencies that will be assigned to on-site inspection activities and to support such activities during that fiscal year. 102 STAT. 2037

SEC. 910. COORDINATION OF VERIFICATION POLICY AND RESEARCH AND DEVELOPMENT ACTIVITIES

(a) REPORT.—Not later than June 30, 1989, the President shall submit to Congress a report reviewing the relationship of arms control objectives of the United States with research and development of improved monitoring systems for arms control verification. The review shall include the participation of the Secretaries of Defense, State, and Energy, the Director of Central Intelligence, and the Director of the United States Arms Control and Disarmament Agency. President of U.S.

(b) FINDINGS AND RECOMMENDATIONS.—The report shall include the findings of the President, and such recommendations for improvements as the President considers appropriate, with respect to the following:

(1) The status of coordination among the officers named in subsection (a) in the formulation of the policy of the United States regarding arms control verification.

(2) The status of efforts to ensure that such policy is formulated in a manner which takes into account available monitoring technology.

(3) The status of efforts to ensure that research and development on monitoring technology evolves concurrently with such policy.

TITLE X—MATTERS RELATING TO NATO COUNTRIES AND OTHER ALLIES

SEC. 1001. INCREASE IN ANNUAL DOLLAR LIMITATION ON ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH ALLIED COUNTRIES

Section 2347(a)(1) of title 10, United States Code, is amended by striking out "$100,000,000" and inserting in lieu thereof "$150,000,000".

SEC. 1002. AUTHORITY TO WAIVE SURCHARGES ON CERTAIN SALES TO NORTH ATLANTIC TREATY ORGANIZATION

Section 21(e) of the Arms Export Control Act (22 U.S.C. 2761(e)) is amended by adding at the end the following:

"(3)(A) The President may waive the charges for administrative services that would otherwise be required by paragraph (1)(A) in connection with any sale to the Maintenance and Supply Agency of the North Atlantic Treaty Organization in support of—

"(i) a weapon system partnership agreement; or

"(ii) a NATO/SHAPE project.

"(B) The Secretary of Defense may reimburse the fund established to carry out section 43(b) of this Act in the amount of the charges waived under subparagraph (A) of this paragraph. Any such reimbursement may be made from any funds available to the Department of Defense.

"(C) As used in this paragraph—

"(i) the term 'weapon system partnership agreement' means an agreement between two or more member countries of the Maintenance and Supply Agency of the North Atlantic Treaty Organization that—

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"(I) is entered into pursuant to the terms of the charter of that organization; and

"(II) is for the common logistic support of a specific weapon system common to the participating countries; and

"(ii) the term 'NATO/SHAPE project' means a common-funded project supported by allocated credits from North Atlantic Treaty Organization bodies or by host nations with NATO Infrastructure funds.".

SEC. 1003. AUTHORITY OF MILITARY DEPARTMENTS TO LOAN AND BORROW FROM CERTAIN ALLIES MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES

(a) IN GENERAL.—Chapter 6 of the Arms Export Control Act (22 U.S.C. 2796c) is amended by adding at the end the following new section:

22 USC 2796d.

"SEC. 65. LOAN OF MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—(a)(1) Except as provided in subsection (c), the Secretary of Defense may loan to a country that is a NATO or major non-NATO ally materials, supplies, or equipment for the purpose of carrying out a program of cooperative research, development, testing, or evaluation. The Secretary may accept as a loan or a gift from a country that is a NATO or major non-NATO ally materials, supplies, or equipment for such purpose.

Gifts and property.

Contracts.

"(2) Each loan or gift transaction entered into by the Secretary under this section shall be provided for under the terms of a written agreement between the Secretary and the country concerned.

"(3) A program of testing or evaluation for which the Secretary may loan materials, supplies, or equipment under this section includes a program of testing or evaluation conducted solely for the purpose of standardization, interchangeability, or technical evaluation if the country to which the materials, supplies, or equipment are loaned agrees to provide the results of the testing or evaluation to the United States without charge.

"(b) The materials, supplies, or equipment loaned to a country under this section may be expended or otherwise consumed in connection with any testing or evaluation program without a requirement for reimbursement of the United States if the Secretary—

"(1) determines that the success of the research, development, test, or evaluation depends upon expending or otherwise consuming the materials, supplies, or equipment loaned to the country; and

"(2) approves of the expenditure or consumption of such materials, supplies, or equipment.

"(c) The Secretary of Defense may not loan to a country under this section any material if the material is a strategic and critical material and if, at the time the loan is to be made, the quantity of the material in the National Defense Stockpile (provided for under section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b)) is less than the quantity of such material to be stockpiled, as determined by the President under section 3(a) of such Act.

"(d) For purposes of this section, the term 'NATO or major non-NATO ally' means a member country of the North Atlantic Treaty Organization (other than the United States) or a foreign country other than a member nation of NATO designated as a major non-NATO ally under section 1105 of the National Defense Authorization Act for Fiscal Year 1987 (22 U.S.C. 2767a).".

102 STAT. 2039

(b) CLERICAL AMENDMENT.—The heading for such chapter is amended to read as follows:

"CHAPTER 6—LEASES OF DEFENSE ARTICLES AND LOAN AUTHORITY FOR COOPERATIVE RESEARCH AND DEVELOPMENT PURPOSES".

SEC. 1004. SENSE OF CONGRESS ON NEED FOR MODERNIZATION OF THEATER NUCLEAR CAPABILITIES OF NATO

22 USC 1928 note.

(a) FINDINGS.—Congress makes the following findings:

(1) The security of the North Atlantic Treaty Organization (NATO) alliance will continue for the foreseeable future to rely on a modern and credible nuclear deterrent.

(2) NATO should make every effort to achieve the goal of raising the threshold for the use of nuclear weapons in the event of a conflict in Europe.

(3) While recognizing that there is a critical need for improvements in conventional forces, Congress also recognizes that the United States will have to devote defense resources in the future to the continuing modernization of the theater nuclear capabilities of NATO.

(4) The modernization of the theater nuclear capabilities of NATO is a continuing process and stems from the 1983 Montebello decision by NATO to reduce the stockpile of nuclear weapons in Europe while taking steps to ensure that the remaining nuclear weapons of the alliance are responsive, survivable, and effective.

(5) Programs to modernize theater nuclear forces, which had a high priority for NATO before the ratification of the Intermediate-range Nuclear Forces (INF) Treaty, are at least as important following the ratification of that treaty in May 1988.

(6) The NATO Nuclear Planning Group recently reaffirmed its endorsement of development by the United States of a new missile for delivery of theater nuclear weapons as a follow-on to the current Lance missile, with a view toward an eventual decision on deployment of such a follow-on missile.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) modernization of the theater nuclear capabilities of the North Atlantic Treaty Organization is essential to the deterrence strategy of the NATO alliance, particularly in light of the requirements of the Intermediate-range Nuclear Forces (INF) Treaty for the destruction of intermediate-range nuclear weapons;

(2) continued modernization by the United States of theater nuclear capabilities should be undertaken in close consultation with other NATO member nations; and

(3) the United States should proceed with ongoing activities to meet the identified requirement of the NATO alliance for development of a new missile for delivery of theater nuclear weapons as a follow-on to the Lance missile.

SEC. 1005. REPORT ON NATO DEFENSE PROGRAM FOR FISCAL YEAR 1990

(a) REPORT.—The Secretary of Defense shall submit to Congress a report setting forth in detail the programs of the Department of Defense in support of the North Atlantic Treaty Organization (referred to as the "NATO Defense Program") for fiscal year 1990. The report shall include—

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(1) an identification of each such program by program element; and

(2) a description of each such program and the level of funding requested by the President for each such program in the budget for fiscal year 1990.

(b) SUBMISSION OF REPORT.—The report under subsection (a) shall be submitted in conjunction with the submission to Congress of the President's budget for fiscal year 1990 pursuant to section 1105 of title 31, United States Code.

SEC. 1006. IMPROVEMENT IN DEFENSE RESEARCH AND PROCUREMENT LIAISON WITH ISRAEL

10 USC 133 note.

The Secretary of Defense, in consultation with the Under Secretary of Defense for Acquisition, shall designate for duty in Israel

an individual or individuals to serve as the primary liaison between the procurement and research and development activities of the United States Armed Forces and those of the State of Israel.

SEC. 1007. MODIFICATION OF REQUIREMENT CONCERNING DESIGNATION OF MAJOR NON-NATO ALLIES

Section 1105(f) of the National Defense Authorization Act for Fiscal Year 1987 (22 U.S.C. 2767a) is amended—

(1) by striking out "Not later than January 1 of each year, the Secretary" and inserting in lieu thereof "The Secretary";

(2) by inserting ", whenever they consider such action to be warranted," after "Secretary of State"; and

(3) by inserting "to be added to or deleted from the existing designation of countries" in paragraph (1) after "countries".

SEC. 1008. CALL FOR CONTINUED DEFENSE BURDENSHARING DISCUSSIONS WITH ALLIES

It is the sense of Congress that the President should continue the discussions (called for by Congress in section 1254(b)(1) of Public Law 100-204) with countries which participate in mutual defense alliances with the United States, especially the member nations of the North Atlantic Treaty Organization and Japan, for the purpose of reaching an agreement for a more equitable distribution of the burden of financial support for the alliances.

SEC. 1009. CONTRIBUTIONS BY JAPAN TO GLOBAL STABILITY

(a) FINDINGS.—The Congress makes the following findings:

(1) As noted by Congress in section 1012(a)(1) of Public Law 100-180 and in section 812(a)(1) of Public Law 99-93, the alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributing factor to the democratic freedoms and the economic prosperity enjoyed by both the United States and Japan.

(2) In keeping with the declaration made at the 1983 meeting in Williamsburg, Virginia, of the leaders of the leading industrialized democracies that "the security of our countries is indivisible and must be approached on a global basis", the Government of Japan, in actions welcomed by the United States—

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(A) continues to fulfill the pledge made by the Prime Minister of Japan in May 1981 to develop the capabilities to defend the territory of Japan and the airspace and sealanes around Japan to a distance of 1,000 nautical miles by 1990,

(B) has increased the amount of assistance provided to other countries during fiscal year 1988 by 6.5 percent over the amount of such assistance provided during fiscal year 1987, and

(C) is, according to recent reports, actively involved in increasing its contributions to the stability of the Republic of the Philippines.

(3) Japan could, because of its recent history and economic status, best fulfill a politically acceptable and significant role in maintaining the security of the leading industrialized democracies by increasing spending for its Official Development Assistance program in the manner described by Congress in section 1012(b) of Public Law 100-180.

(4) The failure of the United States and Japan to agree on the appropriate level of the contribution by Japan to maintaining the security of the leading industrialized democracies could weaken the long-term vitality, effectiveness, and cohesion of the alliance between the United States and Japan.

22 USC 1928 note.

(b) ANNUAL REPORT.—The Secretary of Defense shall include with the annual report submitted pursuant to section 1003 of Public Law 98-525 (22 U.S.C. 1928 note) a report on the Official Development Assistance program of the Government of Japan. Such report shall be prepared each year in coordination with the Secretary of State

and the Administrator of the Agency for International Development and shall include a description of the amount and nature of spending under such program by recipient, including distinguishing between grant aid, loans, and credits.

(c) POLICY ON DISCUSSIONS WITH JAPAN.—It is the sense of Congress that in the discussions with Japan referred to in section 1008 for the purpose of reaching a more equitable distribution of the burden of financial support for the security of the leading industrialized democracies, the objective of such discussions should include the establishment of a schedule for increases in spending under Japan's Official Development Assistance program and its defense programs so that, by 1992, the level of spending on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the progress of the discussions described in subsection (c) with respect to Japan. President of U.S.

(e) FURTHER CONGRESSIONAL ACTION.—It is the sense of Congress that if, in the judgment of Congress, the report of the President under subsection (d) does not reflect substantial progress toward a more equitable distribution of the burden of maintaining the security of the leading industrialized democracies, Congress should review the extent of the distribution of the mutual security burden between the United States and Japan and should consider whether additional legislation is appropriate.

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TITLE XI—DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

SEC. 1101. ANNUAL GUIDELINES TO THE MILITARY DEPARTMENTS

Section 113 of title 10, United States Code, is amended by adding to the end the following new subsection:

"(1) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the Secretaries of the military departments and to the commanders of the combatant commands written guidelines to direct the effective detection and monitoring of all potential aerial and maritime threats to the national security of the United States. Those guidelines shall include guidance on the specific force levels and specific supporting resources to be made available for the period of time for which the guidelines are to be in effect.".

SEC. 1102. LEAD AGENCY FOR DETECTION

10 USC 113 note.

(a) DEPARTMENT OF DEFENSE TO SERVE AS LEAD AGENCY.—The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) PRESIDENTIAL DETERMINATION.—Not later than 15 days after the date of the enactment of this Act, the President may designate an agency other than the Department of Defense as the single lead agency for the purpose stated in subsection (a). Before making such a designation, the President shall notify the Committees on Armed Services of the Senate and House of Representatives of the proposed designation and shall submit to those committees a detailed report setting forth the reasons for such designation. Reports.

SEC. 1103. COMMUNICATIONS NETWORK

President of U.S.
10 USC 374 note.

(a) INTEGRATION OF C3I ASSETS.—(1) The President shall direct that command, control, communications, and technical intelligence assets of the United States that are dedicated to the interdiction of

illegal drugs be integrated by the Secretary of Defense into an effective communications network.

Reports.

(2) Not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report setting forth the plan of the President for the integration of assets by the Secretary of Defense under paragraph (1).

Reports.

(b) PLAN FOR RESPONSIBILITY FOR OPERATING C3I NETWORK.—Not later than 120 days after submission of the report required by subsection (a)(2), the President shall develop a plan for the assignment of responsibility for operating the communications network described in subsection (a)(1) and shall submit to Congress a report on such plan. The plan shall ensure that assignment of the responsibility for operating the communications network referred to in subsection (a)(1) is made not later than 60 days after the date on which the report required by this subsection is submitted to Congress.

SEC. 1104. ENHANCED DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT BY THE DEPARTMENT OF DEFENSE

(a) REVISION OF SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES.—Chapter 18 of title 10, United States Code, is amended to read as follows:

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State and local governments.

"CHAPTER 8—MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

"Sec.
"371. Use of information collected during military operations.
"372. Use of military equipment and facilities.
"373. Training and advising civilian law enforcement officials.
"374. Maintenance and operation of equipment.
"375. Restriction on direct participation by military personnel.
"376. Support not to affect adversely military preparedness.
"377. Reimbursement.
"378. Nonpreemption of other law.
"379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes.
"380. Enhancement of cooperation with civilian law enforcement officials.

"§ 371. Use of information collected during military operations

"(a) The Secretary of Defense may, in accordance with other applicable law, provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military training or operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials.

"(b) The needs of civilian law enforcement officials for information shall, to the maximum extent practicable, be taken into account in the planning and execution of military training or operations.

"(c) The Secretary of Defense shall ensure, to the extent consistent with national security, that intelligence information held by the Department of Defense and relevant to drug interdiction or other civilian law enforcement matters is provided promptly to appropriate civilian law enforcement officials.

"§ 372. Use of military equipment and facilities

"The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes.

"§ 373. Training and advising civilian law enforcement officials

"The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available—

"(1) to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372 of this title; and

"(2) to provide such law enforcement officials with expert advice relevant to the purposes of this chapter.

"§ 374. Maintenance and operation of equipment

"(a) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available for the maintenance of equipment for Federal, State, and local civilian law enforcement officials, including equipment made available under section 372 of this title.

"(b)(1) Subject to paragraph (2) and in accordance with other applicable law, the Secretary of Defense may, upon request from the head of a Federal law enforcement agency, make Department of Defense personnel available to operate equipment (including equipment made available under section 372 of this title) with respect to— 102 STAT. 2044

"(A) a criminal violation of a provision of law specified in paragraph (4)(A); or

"(B) assistance that such agency is authorized to furnish to a State, local, or foreign government which is involved in the enforcement of similar laws.

"(2) Department of Defense personnel made available to a civilian law enforcement agency under this subsection may operate equipment for the following purposes: Aircraft and air carriers. Maritime affairs.

"(A) Detection, monitoring, and communication of the movement of air and sea traffic.

"(B) Aerial reconnaissance.

"(C) Interception of vessels or aircraft detected outside the land area of the United States for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials.

"(D) Operation of equipment to facilitate communications in connection with law enforcement programs specified in paragraph (4)(A).

"(E) Subject to joint approval by the Secretary of Defense, the Attorney General, and the Secretary of State, in connection with a law enforcement operation outside the land area of the United States—

"(i) the transportation of civilian law enforcement personnel; and

"(ii) the operation of a base of operations for civilian law enforcement personnel.

"(3) Department of Defense personnel made available to operate equipment for the purpose stated in paragraph (2)(C) may continue to operate such equipment into the land area of the United States in cases involving the pursuit of vessels or aircraft where the detection began outside such land area. Maritime affairs. Aircraft and air carriers.

"(4) In this subsection:

"(A) The term 'Federal law enforcement agency' means an agency with jurisdiction to enforce any of the following:

"(i) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

"(ii) Any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324–1328).

"(iii) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) into or out of the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States) or any other territory or possession of the United States.

"(iv) The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

"(B) The term 'land area of the United States' includes the land area of any territory, commonwealth, or possession of the United States.

"(c) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available to any Federal, State, or local civilian law enforcement agency to operate equipment for purposes other than described in paragraph (2) only to the extent that such support does not involve direct participation by such personnel in a civilian law enforcement operation unless such direct participation is otherwise authorized by law.

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Regulations.

"§ 375. Restriction on direct participation by military personnel

"The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that the provision of any support (including the provision of any equipment or facility or the assignment or detail of any personnel) to any civilian law enforcement official under this chapter does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in a search and seizure, an arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law.

"§ 376. Support not to affect adversely military preparedness

"Support (including the provision of any equipment or facility or the assignment or detail of any personnel) may not be provided to any civilian law enforcement official under this chapter if the provision of such support will adversely affect the military preparedness of the United States. The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that the provision of any such support does not adversely affect the military preparedness of the United States.

Regulations.

"§ 377. Reimbursement

"(a) To the extent otherwise required by section 1535 of title 31 (popularly known as the 'Economy Act') or other applicable law, the Secretary of Defense shall require a civilian law enforcement agency to which support is provided under this chapter to reimburse the Department of Defense for that support.

"(b) An agency to which support is provided under this chapter is not required to reimburse the Department of Defense for such support if such support—

"(1) is provided in the normal course of military training or operations; or

"(2) results in a benefit to the element of the Department of Defense providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training.

"§ 378. Nonpreemption of other law

"Nothing in this chapter shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before December 1, 1981.

"§ 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

"(a) The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board every appropriate surface naval vessel at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

"(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)— 102 STAT. 2046

"(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

"(2) as are otherwise within the jurisdiction of the Coast Guard.

"(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(b)(4)(A) of this title.

"(d) In this section, the term 'drug-interdiction area' means an area outside the land area of the United States (as defined in section 374(b)(4)(B) of this title) in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

"§ 380. Enhancement of cooperation with civilian law enforcement officials

"(a) The Secretary of Defense, in cooperation with the Attorney General, shall conduct an annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State) regarding information, training, technical support, and equipment and facilities available to civilian law enforcement personnel from the Department of Defense.

"(b) Each briefing conducted under subsection (a) shall include the following:

"(1) An explanation of the procedures for civilian law enforcement officials—

"(A) to obtain information, equipment, training, expert advice, and other personnel support under this chapter; and

"(B) to obtain surplus military equipment.

"(2) A description of the types of information, equipment and facilities, and training and advice available to civilian law enforcement officials from the Department of Defense.

"(3) A current, comprehensive list of military equipment which is suitable for law enforcement officials from the Department of Defense or available as surplus property from the Administrator of General Services.

"(c) The Attorney General and the Administrator of General Services shall—

"(1) establish or designate an appropriate office or offices to maintain the list described in subsection (b)(3) and to furnish information to civilian law enforcement officials on the availability of surplus military equipment; and

"(2) make available to civilian law enforcement personnel nationwide, tollfree telephone communication with such office or offices.". Communications and telecommunications.

(b) CLERICAL AMENDMENT.—The item relating to such chapter in the tables of chapters at the beginning of subtitle A, and at the beginning of part I of subtitle A, of title 10, United States Code, is amended to read as follows:

"18. Military Support for Civilian Law Enforcement Agencies ..... 371". 102 STAT. 2047

SEC. 1105. ENHANCED DRUG INTERDICTION AND ENFORCEMENT ROLE FOR THE NATIONAL GUARD State and local governments. 10 USC 374 note.

(a) FUNDING ASSISTANCE.—(1) The Secretary of Defense may provide to the Governor of a State who submits a plan to the Secretary under paragraph (2) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used—

(A) for the purpose of drug interdiction and enforcement operations; and

(B) for the operation and maintenance of the equipment and facilities of the National Guard of such State used for such purposes.

(2) The Secretary may provide funds under paragraph (1) to the Governor of a State who submits to the Secretary a plan specifying how personnel of the National Guard of that State are to be used in drug enforcement and interdiction operation by a National Guard of a State if—

(A) such operations are conducted at a time when personnel of the National Guard of the State are under the command and control of State authority and are not in Federal service; and

(B) participation by a National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(3) Before funds are provided to the Governor of a State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(4) Of the amounts appropriated pursuant to section 1106, the Secretary shall, for the purposes of paragraph (1), make available—

(A) not more than $30,000,000 for operations and maintenance for the National Guard, and

(B) not more than $30,000,000 for National Guard personnel.

(5) Nothing in this subsection shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(b) TRAINING CRITERIA.—The Secretary of Defense shall prescribe and enforce training criteria for the National Guard to enhance the capability of the National Guard to assist in drug abuse control activities.

(c) PRESIDENTIAL REPORT.—Not later than 120 days after the date of the enactment of this Act, the President shall submit to Congress a report on the past effectiveness of using members of the National Guard for drug interdiction efforts, consistent with applicable law, along the borders and at the ports of entry of the United States and on the potential for the effective use of such members for such purpose in the future.

SEC. 1106. FUNDING OF ACTIVITIES RELATED TO DRUG INTERDICTION

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) In addition to the amounts otherwise authorized to be appropriated by this Act, there is hereby authorized to be appropriated to the Department of Defense for fiscal year 1989 the sum of $210,000,000. Amounts appropriated pursuant to the preceding sentence shall be available only for transfer to other appropriations available to the Department of Defense and may be used only for the purposes stated in paragraph (2).

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(2) Funds transferred under paragraph (1) may be used only for the mission of the Department of Defense set forth in section 113(1) of title 10, United States Code, as added by section 1101, for the activities of the Department of Defense under section 1103, and for National Guard drug interdiction activities described in section 1105. Such funds shall be available for obligation for the same period, and for the same purpose, as the appropriation to which transferred.

(b) TRANSFER OF FISCAL YEAR 1987 FUNDS.—Of the amounts appropriated for the Navy for procurement of aircraft for fiscal year 1987, and which remain unobligated on the date of the enactment of this Act, the sum of $90,000,000 shall be available only for the purposes set forth in subsection (a)(2). Such amount may be transferred to any appropriation made for the Department of Defense for fiscal year 1989 and shall be merged with, and be available for the same

purpose as, the appropriation to which transferred. The period of the availability for obligation of any amount so transferred shall not be extended as a result of such transfer.

(c) NOTICE TO CONGRESS.—(1) The Secretary of Defense may not transfer any funds appropriated pursuant to subsection (a) to another appropriation for obligation pursuant to this section and may not transfer or obligate any funds made available under subsection (b) until— Reports.

(A) the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report with respect to that transfer described in paragraph (2); and

(B) a period of 60 days elapses after the report is received by those committees.

(2) A report under paragraph (1) with respect to a transfer of funds shall set forth in detail the Secretary's proposal for the obligation of such funds, including a statement of the following:

(A) The appropriation account or accounts to which the funds are proposed to be transferred.

(B) The activities proposed to be undertaken using those funds.

(C) The relationship between those activities and the drug interdiction strategy of the United States.

SEC. 1107. REPORTS

(a) PROPOSALS.—Not later than December 1, 1988, the President shall submit to Congress a report containing— President of U.S.

(1) legislative proposals to enhance the capability of the Department of Defense to perform the functions provided for in this title and in the amendments made by this title; and

(2) estimates of the amounts necessary to carry out such proposals.

(b) RADAR COVERAGE AND SOUTHERN BORDER.—(1) The President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report assessing the potential effect on drug interdiction and on the drug abuse problem in the United States of— President of U.S. Drugs and drug abuse.

(A) carrying out radar coverage along the southern border of the United States; and

(B) pursuing drug smugglers detected by such radar coverage with rotor-wing and fixed-wing aircraft of the Department of Defense and of civilian law enforcement agencies.

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(2) The President shall include in such report an assessment of the relative effectiveness— President of U.S.

(A) of carrying out the operations described in clauses (A) and (B) of paragraph (1) on a full-time basis;

(B) of carrying out such operations only during the hours of darkness; and

(C) the feasibility and cost of carrying out such operations under each of the conditions specified in clauses (A) and (B).

(3) The report under paragraph (1) shall be submitted not later than 30 days after the date of the enactment of this Act.

(c) PURSUIT BY AIRCRAFT.—(1) Not later than 15 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the following information:

(A) The total number of times suspected drug smugglers flying aircraft into the United States have been pursued by aircraft operated by or with the support of personnel of the Department of Defense under the authority of section 374(c)(2)(B) of title 10, United States Code, as in effect on the day before the date of the enactment of this Act.

(B) The number of times civilian law enforcement officials were present at the location and at the time the suspected drug

smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(C) The number of times such officials were not present at the location and at the time such suspected smugglers were forced to land their aircraft in the United States.

(2) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to such committees a report containing the following information:

(A) The total number of times suspected drug smugglers described in paragraph (1) have been pursued into the United States by aircraft operated by or with the support of Department of Defense personnel under the authority of section 374(b)(2)(C) of title 10, as amended by section 1104.

(B) The number of times civilian law enforcement officials were present at the location and at the time the suspected drug smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(C) The number of times such officials were not present at the location and at the time such suspected smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(D) Such other information and such recommendations as the Secretary considers appropriate regarding the use of Department of Defense personnel for purposes authorized in section 374(b) of title 10, United States Code, as amended by section 1104.

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TITLE XII—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

SEC. 1201. TRANSFER AUTHORITY

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in title I, II, or III for any fiscal year between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations for any fiscal year that the Secretary of Defense may transfer under the authority of this section may not exceed $3,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1202. INCREASE IN FISCAL YEAR 1988 DEFENSE FUNDS TRANSFER AUTHORIZATION

Section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1153) is amended—

(1) in subsection (a)—

(A) by inserting "of this Act or any prior defense authorization Act" in paragraph (1) before "for any fiscal year"; and

(B) by striking out "$2,000,000,000" in paragraph (2) and inserting in lieu thereof "$4,000,000,000"; and

(2) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) SPECIFIED PURPOSES.—In determining the purposes for which the authority provided by subsection (a) will be used, the Secretary of Defense shall ensure that to the extent that the total dollar amount of transfers under such authority exceeds $2,000,000,000, an appropriate portion of that authority is used to transfer to military personnel accounts and operation and maintenance accounts of the Department of Defense for fiscal year 1988 (1) funds for depot maintenance activities in amounts sufficient to reduce service backlogs which would otherwise occur, (2) funds for pay of civilian personnel in amounts sufficient to reduce furloughs, reductions-in-force, or release of on-call employees into a nonpay status which would otherwise be required due to insufficient funding for civilian personnel of the Department of Defense for fiscal year 1988, and (3) funds for pay of military personnel.

"(e) NOTICE TO CONGRESS.—The Secretary of Defense shall submit to Congress notice of each transfer made under the authority of this section. After the total dollar amount of such transfers equals or exceeds $2,000,000,000, the notice required by the preceding sentence with respect to any transfer shall be submitted not less than 15 days before the transfer is made, and any such notice shall then include identification of specific actions that the Secretary is taking in order to ensure that the transfer is made in compliance with subsection (f). 102 STAT. 2051

"(f) CONTROL OF OUTLAYS.—In the case of any transfer under the authority of this section after the total dollar amount of such transfers equals or exceeds $2,000,000,000, the Secretary of Defense may carry out such transfer only to the extent that such transfer, and the expenditure of funds so transferred, do not result in an increase in outlays by the Department of Defense during fiscal year 1988.".

PART B—FISCAL YEAR 1988 UNAUTHORIZED APPROPRIATIONS

SEC. 1211. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1988 DEFENSE APPROPRIATIONS

(a) AUTHORITY.—The amounts described in subsection (b), totaling $10,624,600,000, may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1988 defense appropriations except as otherwise provided in section 1212.

(b) COVERED AMOUNTS.—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1988 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1988 defense authorizations.

(c) DEFINITIONS.—For the purposes of this part:

(1) FISCAL YEAR 1988 DEFENSE APPROPRIATIONS.—The term "fiscal year 1988 defense appropriations" means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1988 in the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202).

(2) FISCAL YEAR 1988 DEFENSE AUTHORIZATIONS.—The term "fiscal year 1988 defense authorizations" means amounts authorized to be appropriated for the Department of Defense for fiscal year 1988 in the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180).

SEC. 1212. LIMITATION ON OBLIGATION FOR CERTAIN UNAUTHORIZED APPROPRIATIONS

(a) PROGRAMS NOT AVAILABLE FOR OBLIGATION.—Amounts described in section 1211(b) may not be obligated or expended for the following programs, projects, and activities of the Department of Defense (for which amounts were provided in fiscal year 1988 defense appropriations):

(1) Satellite Systems Survivability program under research, development, test, and evaluation for the Air Force in the amount of $5,300,000.

(2) Maxicube Cargo System under research, development, test, and evaluation for the Army in the amount of $10,000,000.

(3) Coastal Defense Augmentation in the amount of $20,000,000.

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(4) Defense Meteorological Satellite program under research, development, test, and evaluation for the Navy in the amount of $40,000,000.

(5) P-3C aircraft under procurement of National Guard and Reserve equipment in the amount of $193,800,000.

(6) AN/SQR-17 Acoustic Processors for the Mobile Inshore Undersea Warfare group under procurement of National Guard and Reserve equipment in the amount of $10,000,000.

(b) LIMITATION ON CERTAIN PROGRAMS.—

(1) FORWARD AREA AIR DEFENSE HEAVY SYSTEM.—Funds appropriated or otherwise made available for the Army for procurement of missiles for fiscal year 1988 may not be obligated for advance procurement for the Forward Area Air Defense Line of-Sight Forward-Heavy (LOS-F-H) system until—

(A) the Secretary of Defense certifies to the Committees on Armed Services of the Senate and House of Representatives that it is responsible to obligate funds for such purpose before operational testing of such system; and

(B) the Director of Operational Test and Evaluation of the Department of Defense certifies to those committees that he has approved the issues and criteria associated with the operational testing of such system.

(2) A-6 AIRCRAFT CONFIGURATION.—None of the funds appropriated for the procurement of aircraft for the Navy for fiscal year 1988 or 1989 may be obligated or expended for procurement of any A-6 aircraft configured in the F model configuration (as described in connection with the A-6E/A-6F aircraft program in the Selected Acquisition report submitted to Congress for the quarter ending December 31, 1986).

(3) TANK PROCUREMENT.—Funds appropriated for procurement of weapons and tracked combat vehicles for the Army for modification of M60 tanks in the amount of $90,000,000 may be used only for procurement or modification of M1 Abrams tanks, of which $30,000,000 shall be used for facilitization of Anniston Army Depot and initiation of the retrograde and modification programs for M1 tanks.

(c) PROGRAM LIMITATIONS.—All limitations and requirements set forth in division A of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) shall apply to the obligation of funds authorized by section 1211(a) in the same manner as if the funds made available for obligation by such section had been authorized in that Act.

(d) TRANSFER AUTHORITY.—For the purposes of section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989, authorizations in section 1211(a) shall be deemed to have been made available to the Department of Defense in such Act.

(e) For purposes of section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1153), the amount of $279,100,000 (the sum of the amounts described in subsection (a) of this section) shall be deemed to have been authorized by such Act in equal amounts for the Army, Navy, and Air Force for the following purposes:

(1) Depot maintenance activities in amounts sufficient to reduce service backlogs which would otherwise occur.

(2) Pay of civilian personnel in amounts sufficient to reduce furloughs, reductions-in-force, or release of on-call employees into a nonpay status which would otherwise be required due to insufficient funding for civilian personnel of the Department of Defense for fiscal year 1988. 102 STAT. 2053

(3) Pay of military personnel in amounts sufficient to provide necessary costs of maintaining authorized end strengths.

SEC. 1213. REPEAL OF CERTAIN APPROPRIATIONS GENERAL PROVISIONS

Sections 8040, 8098, and 8122 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202), are repealed.

101 Stat. 1329-69, 1329-80; 10 USC 194 note.

PART C—NAVAL VESSELS AND SHIPYARDS

SEC. 1221. NAMING OF TRIDENT SUBMARINE THE U.S.S. MELVIN PRICE

(a) FINDINGS.—The Congress finds that—

(1) the late Honorable Melvin Price served the people of the United States and the 21st Congressional District of Illinois as a Member of the House of Representatives for 44 consecutive years with loyalty, dedication, and warm personal friendship until his death on April 22, 1988;

(2) Melvin Price served as a member of the Committee on Armed Services of the House of Representatives for 40 years and did so with total dedication to the goal of maintaining a strong national defense;

(3) in 1964, Melvin Price became the first chairman of the Research and Development Subcommittee of the Committee on Armed Services of the House of Representatives, and in 1975 became the first military veteran to serve as chairman of that committee, a position he held for 10 years;

(4) Melvin Price was a member of the Joint Committee on Atomic Energy from its establishment in 1946 until 1977 and served as the first chairman of that committee;

(5) Melvin Price played a major role in successfully advocating the peaceful use of nuclear energy and the military application of nuclear power for Navy ships and submarines; and

(6) Melvin Price has left an indelible mark on the history of the Nation as a result of his 44 years of unselfish efforts to maintain the strength and readiness of the Armed Forces.

(b) SENSE OF CONGRESS.—In light of the findings expressed in subsection (a), it is the sense of Congress that the Secretary of the Navy should name the next Trident ballistic missile submarine to be named after the enactment of this Act the U.S.S. Melvin Price.

SEC. 1222. NAMING A NAVY SHIP THE U.S.S. BOB HOPE

(a) FINDINGS.—The Congress finds that—

(1) Bob Hope has unselfishly dedicated his time and efforts for over 50 years to the morale and welfare of the men and women of the Armed Forces;

(2) Bob Hope has served his Nation in three wars by entertaining members of the Armed Forces aboard ships at sea and in combat zones ashore;

(3) Bob Hope has during peacetime entertained the men and women of the Armed Forces in all regions of the world and at every season of the year;

(4) Bob Hope has placed his own safety and convenience second to that of improving the morale of the members of the Armed Forces; and 102 STAT. 2054

(5) Bob Hope has earned the undying respect and fond esteem of all of his countrymen for his dedicated and patriotic endeavors.

(b) SENSE OF CONGRESS.—In light of the findings expressed in subsection (a), it is the sense of Congress that the Secretary of the Navy should name an appropriate ship of the United States Navy the U.S.S. Bob Hope.

SEC. 1223. RATE OF PROGRESS PAYMENTS ON NAVAL SHIP REPAIR CONTRACTS

Section 7312(a) of title 10, United States Code, is amended by inserting "not less than" after "shall be".

SEC. 1224. LIMITATION ON REPAIR OF NAVAL VESSELS IN FOREIGN SHIPYARDS

(a) IN GENERAL.—Section 7309 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) A naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy) the homeport of which is in the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States.

"(2) Paragraph (1) does not apply in the case of voyage repairs.".

(b) CLERICAL AMENDMENTS.—(1) The heading of that section is amended to read as follows:

"§ 7309. Restrictions on construction or repair of vessels in foreign shipyards".

(2) The item relating to such section in the table of sections at the beginning of chapter 633 of such title is amended to read as follows:

"7309. Restrictions on construction or repair of vessels in foreign shipyards.".

Contracts. 10 USC 7309 note.

(c) EFFECTIVE DATE.—Subsection (c) of section 7309 of title 10, United States Code, as added by subsection (a), shall apply with respect to any contract for overhaul, repair, or maintenance of a vessel that is entered into after the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 1225. COMPETITION BETWEEN PUBLIC AND PRIVATE SHIPYARDS FOR OVERHAUL OF NAVAL VESSELS

(a) IN GENERAL.—(1) Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 7313.

"§ 7313. Overhaul of naval vessels: competition between public and private shipyards

"The Secretary of the Navy should ensure, in any case in which the Secretary awards a project for repair, alteration, overhaul, or conversion of a naval vessel following competition between public and private shipyards, that each of the following criteria is met:

"(1) The bid of any public shipyard for the award includes—

"(A) the full costs to the United States associated with future retirement benefits of civilian employees of that shipyard consistent with computation methodology established by Office of Management and Budget Circular A-76; and

"(B) in a case in which equal access to the Navy supply system is not allowed to public and private shipyards, a pro rata share of the costs of the Navy supply system.

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"(2) Costs applicable to oversight of the contract by the appropriate Navy supervisor of shipbuilding, conversion, and repair are added to the bid of any private shipyard for the purpose of comparability analysis.

"(3) The award is made using the results of the comparability analysis.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7313. Overhaul of naval vessels: competition between public and private shipyards.".

10 USC 7313 note.

(b) EFFECTIVE DATE.—Section 7313 of title 10, United States Code, as added by subsection (a), applies to any award by the Secretary of

the Navy made after the end of the 30-day period beginning on the date of the enactment of this Act for repair, alteration, overhaul, or conversion of a naval vessel following competition between public and private shipyards.

SEC. 1226. DEPOT-LEVEL MAINTENANCE OF SHIPS

10 USC 7291 note.

(a) REQUIREMENT THAT CERTAIN WORK BE CARRIED OUT IN THE UNITED STATES.—The Secretary of the Navy shall require that, to the extent feasible and consistent with policies of the Navy regarding family separations, not less than one-half of the depot-level maintenance work described in subsection (b) (measured in cost) shall be carried out in the United States.

(b) WORK COVERED.—Depot-level maintenance work referred to in subsection (a) is depot-level maintenance work for naval vessels that is scheduled as of October 1, 1988, to be carried out in Japan during fiscal years 1989, 1990, and 1991.

SEC. 1227. REPORTS ON EFFECTS OF NAVAL SHIPBUILDING PLANS ON MARITIME INDUSTRIES

10 USC 7291 note.

(a) ANNUAL REPORT.—The Secretary of Defense shall submit to Congress in 1989, 1990, and 1991 a report on how, under the current Five-Year Defense Program of the Department of Defense, programs for naval shipbuilding and conversion, for naval vessel repair, and for procurement of support equipment for naval vessels could be expected to affect the private-sector shipbuilding and ship repair industries of the United States in terms of the effectiveness and preparedness of those industries for mobilization in their role in the sealift component of the conventional deterrent of the United States.

(b) TIME FOR SUBMISSION.—The report under subsection (a) for any year shall be submitted to Congress at the same time that the Secretary submits his annual report to Congress for that year under section 113(c) of title 10, United States Code.

SEC. 1228. REPORT ON ENCOURAGEMENT OF CONSTRUCTION IN UNITED STATES SHIPYARDS OF COMBATANT VESSELS FOR ALLIES

(a) REPORT REQUIREMENT.—The Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on—

(1) the manner in which the Secretary has complied, as of the date of the report, with the provisions of section 1455 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 761); and

(2) plans of the Secretary for such compliance in the future. 102 STAT. 2056

(b) MATTERS TO BE INCLUDED.—The report shall include information regarding the following:

(1) Instances in which the Secretary has encouraged United States shipyards to construct combatant vessels for nations friendly to the United States.

(2) Steps taken by the Secretary to ensure that no effort has been made by any element of the Department of the Navy to inhibit, delay, or halt the provision of any United States naval system which has been approved for export to an allied nation.

(3) Instances in which the Secretary has encouraged United States firms to participate in construction programs outside of the United States in shipyards of allied nations.

(4) Future plans of the Secretary for complying with the requirements of each of subsections (a)(1) through (a)(3) of that section.

(c) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act.

SEC. 1229. REPORT ON SMALL PATROL BOATS OF NAVY

(a) REPORT REQUIREMENT.—The Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and

House of Representatives a report regarding the capability of the Navy to carry out missions requiring the use of small patrol boats. The Secretary shall include in the report—

(1) a discussion of the contingencies that would require the use of small patrol boats rather than larger warships;

(2) an evaluation of the existing capability of the Navy to carry out missions requiring the use of small patrol boats;

(3) a discussion of any plans the Navy has for eliminating the Navy's shortage of such boats; and

(4) such recommendations as the Secretary considers appropriate to strengthen the capabilities of the Navy to carry out effectively missions that would require the use of such boats.

(b) SMALL PATROL BOAT DEFINED.—For purposes of this section, a small patrol boat is a patrol boat that is less than 150 feet in length.

(c) DEADLINE FOR SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act.

PART D—MISCELLANEOUS

SEC. 1231. REPORT ON SUSCEPTIBILITY OF DEFENSE COMPUTER ASSETS TO COMPUTER VIRUSES

The Secretary of Defense shall submit to Congress a report on the susceptibility of vital Department of Defense computer systems to so-called computer viruses and shall describe the steps which have been taken and are planned to be taken to protect the Department of Defense computer systems and records against computer viruses. Such report shall be submitted not later than March 1, 1989, in classified and unclassified form.

SEC. 1232. REASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE

District of Columbia.

102 STAT. 2057

(a) FINDING.—The Congress finds that the report submitted by the Secretary of Defense pursuant to section 1122 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180)—

(1) contains insufficient detail (even in the classified portion) for a review and assessment of the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia, as required by subsection (a) of that section; and

(2) does not contain a determination of the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Soviet Union is consistent with the national security of the United States, as required by subsection (b) of that section.

President of U.S.

(b) SUBMISSION OF NEW REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit a report to Congress which meets the requirements of section 1122 of the National Defense Authorization Act for Fiscal Years 1988 and 1989.

SEC. 1233. TECHNICAL AND CLERICAL AMENDMENTS

(a) REPEAL OF OBSOLETE REFERENCE.—Section 1552 of title 10, United States Code, is amended—

(1) in subsection (b), by striking out "therefor before October 26, 1961, or within three years after he discovers the error or injustice, whichever is later" and inserting in lieu thereof "for the correction within three years after he discovers the error or injustice"; and

(2) in subsection (c), by striking out "The department concerned" and inserting in lieu thereof "The Secretary concerned".

(b) DATE OF ENACTMENT REFERENCES.—(1) Section 305a(d)(2) of title 37, United States Code, is amended by striking out "on or after the effective date specified in section 621(e)(1) of the National Defense Authorziation Act for Fiscal Year 1988" and inserting in lieu thereof "after December 31, 1988,".

(2) Section 3(c)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(c)(1)) is amended by striking out "the date of the enactment of the National Defense Stockpile Amendments of 1987" and inserting in lieu thereof "December 4, 1987".

(c) CORRECTION OF MISSPELLED WORD.—The table in section 1406(b) of title 10, United States Code, is amended by striking out "satisfactory" in the matter in the second column relating to section 1331 and inserting in lieu thereof "satisfactorily".

(d) REPEAL OF SURPLUS WORD.—Section 2343(b) of title 10, United States Code, is amended by striking out "section" before "2306a".

(e) PUNCTUATION CORRECTIONS.—(1) Section 1101(c) of title 10, United States Code, is amended by striking out "(1)" after "REGULATIONS.—".

(2) Paragraph (3) of section 7430(b) of such title is amended—

(A) by aligning the paragraph flush to the margin; and

(B) by striking out the comma at the end and inserting in lieu thereof a period.

(f) CAPITALIZATION CORRECTIONS.—(1) Section 801(1) of title 10, United States Code, is amended by striking out "judge" and inserting in lieu thereof "Judge".

(2) Section 101(5) of title 37, United States Code, is amended by striking out "secretary" and inserting in lieu thereof "Secretary".

(g) CROSS-REFERENCE AMENDMENTS.—(1) Section 401(c)(2) of title 10, United States Code, is amended by striking out "subsection (a)" and inserting in lieu thereof "paragraph (1)".

(2) Section 2133(b)(1) of title 10, United States Code, is amended by striking out "section 1431(e)" and inserting in lieu thereof "section 1431(f)".

(3) Section 7427 of title 10, United States Code, is amended by striking out "section 17(j)" and "30 U.S.C. 226(j)" and inserting in lieu thereof "section 17(m)" and "30 U.S.C. 226(m)", respectively.

(4) Section 1013 of title 37, United States Code, is amended by striking out "section 1051" and inserting in lieu thereof "section 1032".

(h) REPEAL OF EXPIRED REPORTING REQUIREMENT.—Section 179 of title 10, United States Code, is amended by striking out subsection (e).

(i) SECTION HEADINGS.—(1)(A) The heading of section 3965 of title 10, United States Code, is amended to read as follows:

"§ 3965. Restoration to former grade: retired warrant officers and enlisted members".

(B) The item relating to that section in the table of sections at the beginning of chapter 369 of such title is amended to read as follows:

"3965. Restoration to former grade: retired warrant officers and enlisted members.".

(2)(A) The heading of section 8965 of title 10, United States Code, is amended to read as follows:

"§ 8965. Restoration to former grade: retired warrant officers and enlisted members".

(B) The item relating to that section in the table of sections at the beginning of chapter 869 of such title is amended to read as follows:

"8965. Restoration to former grade: retired warrant officers and enlisted members.".

(j) SUBSECTION HEADING.—Section 2329(d) of title 10, United States Code, is amended by inserting after "(d)" the following: "TREATMENT OF CERTAIN COSTS AS DIRECT COSTS.—".

(k) DEFINITIONS.—(1) Section 2141(c) of title 10, United States Code, is amended by inserting "the term" after "In this chapter,".

(2) Section 9511(1) of such title is amended by striking out "The term" and inserting in lieu thereof "The terms".

(l) AMENDMENTS TO PUBLIC LAW 100–180.—(1) Section 623(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1101) is amended by inserting "in paragraphs (1) and (2)" before "and inserting".

37 USC 301c.

(2) Section 717(c) of such Act (101 Stat. 1114) is amended by striking out "on" in the quoted matter in paragraph (2) and inserting in lieu thereof "upon".

10 USC 8855.

(3) Paragraph (1) of section 802(a) of such Act (101 Stat. 1123) is amended by inserting end quotation marks and a period after "section." at the end.

10 USC 2366.

(4) Section 803(a) of such Act (101 Stat. 1125) is amended by inserting "the first place it appears" before "and inserting".

10 USC 2435.

(5) The amendments made by this subsection shall apply as if included in the enactment of Public Law 100–180.

10 USC 2366 note.

102 STAT. 2059

SEC. 1234. REFERENCES TO THE CANAL ZONE

(a) TITLE 10.—Title 10, United States Code, is amended as follows:

(1) Sections 101(3), 101(10), 101(12), 269(g), 281, 594(b), 672(d), 771a(c), 802(a)(11), 802(a)(12), 936(a), 1002(c), 3040(a), 3218, 3225, 3259, 3352(a), 3363(b), 3390(a), 3392, 3500 (first sentence), 3501(a), 3501(b), 3845, 3848(c)(1), 3851(a), 3851(d)(1), 3852(a), 4301(c), 8218, 8225, 8259, 8352(a), 8360(b), 8363(a), 8381(a), 8392, 8500 (first sentence), 8501(a), 8501(b), 8845, 8851(a), 8852(a), and 9301(c) are each amended by striking out "the Canal Zone," each place it appears.

(2) Sections 270(c) and 672(b) are each amended by striking out ", Puerto Rico, or the Canal Zone," and inserting in lieu thereof "or Puerto Rico".

(3) Sections 312(a)(2), 3500, and 8500 are each amended by striking out "Puerto Rico, and the Canal Zone" and inserting in lieu thereof "and Puerto Rico".

(4) Sections 3364(g) and 3364(j) are each amended by striking out ", Puerto Rico, the Canal Zone," and inserting in lieu thereof "or Puerto Rico".

(5) Section 3370(d) is amended by striking out "Puerto Rico, the Canal Zone" and inserting in lieu thereof "or Puerto Rico".

(6) Section 7308(a)(2) is amended by striking out "or the Canal Zone".

(b) TITLE 32.—Title 32, United States Code, is amended as follows:

(1) Sections 101(4), 101(6), 103, 104(c), 104(d), 107(b), 109, 304, 314(a), 314(d), 315(a), 315(b), 333, 501(b), 503(b), 504(b), 702(b), 702(c), 702(d), 703, 704, 708(d), 710, 711, and 712 are each amended by striking out "the Canal Zone,".

(2) Section 104(a) is amended by striking out "Each State and Territory, Puerto Rico, and the Canal Zone" and inserting in lieu thereof "Each State or Territory and Puerto Rico".

(3) Section 331 is amended by striking out "the governor of the State or Territory, Puerto Rico, or the Canal Zone," and inserting in lieu thereof "the Governor of the State or territory or Puerto Rico,".

(4) Sections 327(a), 505(a), and 702(a) are each amended by striking out "Territory, Puerto Rico, or the Canal Zone," and inserting in lieu thereof "Territory or Puerto Rico".

(5) Section 314(b) is amended—

(A) by striking out ", the Canal Zone," in the first sentence; and

(B) by striking out "or the Canal Zone" in the second sentence.

(6) Sections 324(b) and 325(a) are each amended by striking out ", the Canal Zone,".

TITLE XIII—FOREIGN RELATIONS MATTERS

SEC. 1301. SENSE OF CONGRESS CONCERNING THE PANAMA CANAL AND THE UNITED STATES SOUTHERN COMMAND

(a) FINDINGS.—The Congress finds that—

(1) the security of, and the free flow of shipping through, the Panama Canal are vital interests of the United States; and

(2) the continued ability of the United States Southern Command (which currently has its headquarters in the Republic of Panama) to carry out assigned missions, especially the mission of defense of the Panama Canal, is essential to protecting and promoting the interests of the United States.

102 STAT. 2060

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the President should take all steps necessary to ensure the continued ability of the United States Southern Command (or any successor command) to carry out assigned missions, especially the mission of defense of the Panama Canal.

SEC. 1302. LIMITATION ON ASSISTANCE TO PANAMANIAN DEFENSE FORCE

President of U.S.
22 USC 2151 note

(a) LIMITATION.—The President may not use any funds appropriated to or for the use of any department, agency, or other entity of the United States for the purpose of providing assistance to the Panamanian Defense Force. The limitation in the preceding sentence shall cease to apply upon the submission by the President to Congress of a certification by the President—

(1) that no armed forces of the Soviet Union, the Republic of Cuba, or the Republic of Nicaragua are present in the Republic of Panama (other than military attachés accredited to the Republic of Panama); and

(2) that General Manuel Noriega has relinquished command of the Panamanian Defense Force and no longer holds any official position of leadership (either military or civilian) in the Republic of Panama.

Manuel Noriega

(b) CLARIFICATION.—Subsection (a) does not prohibit the President from obligating or expending any funds necessary for—

(1) the defense of the Panama Canal,

(2) the collection of intelligence,

(3) the maintenance of United States Armed Forces in the Republic of Panama, or

(4) the protection of United States interests in the Republic of Panama.

(c) REPORT.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress a detailed report, in both classified and unclassified form, indicating—

(1) whether (and to what extent) military, paramilitary, or intelligence personnel of the Soviet Union, Cuba, or Nicaragua are present in the Republic of Panama; and

(2) whether (and to what extent) the Panamanian Defense Force has coordinated with, cooperated with, supported, or received support from, any such personnel.

SEC. 1303. SENSE OF CONGRESS CONCERNING INDICTMENT OF GENERAL NORIEGA OF PANAMA ON DRUG-RELATED CHARGES

(a) FINDINGS.—The Congress finds that—

(1) General Manuel Noriega, the commander of the Panamanian Defense Force, was indicted on February 5, 1988, in the United States District Courts for the Southern District and for the Middle District of Florida on a number of serious drug-related charges against the laws of the United States, including charges involving trafficking in illegal drugs, protecting and supporting drug traffickers, and laundering of drug-related money; and

(2) there have been reports in the news media and from other sources that discussions between officials of the United States and General Noriega may have occurred concerning arrangements under which General Noriega would give up political power and leave the Republic of Panama in exchange for which the United States would file a motion to dismiss the indictments referred to in paragraph (1).

102 STAT. 2061

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the United States should not conduct or authorize any negotiations or discussions, and should not make any arrangements, with General Manuel Noriega which would involve any effort by the United States to dismiss the indictments referred to in subsection (a)(1); and

(2) that any such negotiation, discussion, or arrangement—

(A) would be incompatible with the high priority that the United States places on the war on drugs;

(B) would not further the prospects for restoring noncorrupt, democratic government to the Republic of Panama; and

(C) would not serve the interests of the United States.

SEC. 1304. SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

Congress hereby reaffirms the sense of Congress expressed in the first session of the 99th Congress (in section 1451 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 760)), that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

SEC. 1305. HUMAN RIGHTS VIOLATIONS BY THE GOVERNMENT OF POLAND

(a) FINDINGS.—Congress makes the following findings:

(1) The government of Poland, headed by General Wojciech Jaruzelski, has violated internationally recognized human rights of the people of Poland, including the right to peaceably assemble, the right to strike, the right to freely associate, and the right to due process.

(2) The Jaruzelski government has retaliated against the justified, peaceful protests of workers at Nowa Huta, Poland, through the use of violence and force.

(3) The Jaruzelski government has prosecuted and imprisoned a number of persons for politically related offenses.

(4) The Jaruzelski government has to date refused to take steps which would guarantee the right of the people of Poland to participate in the management of the economy of Poland and has refused to accept the principle of pluralism in the national life of Poland.

(b) SENSE OF CONGRESS.—It is, therefore, the sense of Congress—

(1) that the use of force against the workers of Nowa Huta and intimidation against other strikers in Poland should be condemned; and

(2) that improvement in relations between the United States and Poland must be predicated on an improvement in internationally recognized human rights in Poland, including the release of political prisoners, steps toward trade union pluralism and the rights of independent trade unions to organize, and steps toward genuine national reconciliation and dialogue.

102 STAT. 2062

SEC. 1306. CONDITIONS FOR SALE OR OTHER TRANSFER OF F-15 AIRCRAFT TO SAUDI ARABIA

(a) Notwithstanding any other provision of law, any sale or other transfer to Saudi Arabia by the United States of F-15 aircraft shall be subject to the following conditions:

(1) Any such F-15 aircraft sold or otherwise transferred to Saudi Arabia shall be limited to models A, B, C, and D.

(2) The United States shall not sell or otherwise transfer to Saudi Arabia the F-15-E with a ground attack capability and shall not upgrade existing Saudi aircraft to that capability.

(3) Saudi Arabia shall not possess more than 60 F-15 aircraft at any time, except that additional replacement F-15 aircraft may be held in the United States, at the expense of Saudi Arabia, for shipment to Saudi Arabia only after the President notifies Congress that the existing inventory of F-15 aircraft held by Saudi Arabia is less than 60 and, then, only on a one-for-one replacement basis as each F-15 aircraft is totally removed from the inventory of Saudi Arabia.

(b) The President may waive subsection (a) if the President certifies to Congress that such action is in the national interest.

SEC. 1307. RESTRICTION ON SALE OF DEFENSE ARTICLES TO CERTAIN NATIONS

(a) RESTRICTION.—During fiscal year 1989, the United States may not make any sale of defense articles subject to section 36(b) of the Arms Export Control Act (22 U.S.C. 2776(b)) to any nation which has acquired intermediate-range ballistic missiles made by the People's Republic of China. People's Republic of China.

(b) PRESIDENTIAL CERTIFICATION.—(1) The restriction in subsection (a) shall cease to apply with respect to any nation which has acquired such missiles upon certification by the President to Congress that that nation does not have chemical, biological, or nuclear warheads for those missiles.

(2) If the President makes a certification under paragraph (1) in the case of any nation, the President shall notify Congress promptly of any evidence that, after the date of such certification, such nation has acquired chemical, biological, or nuclear warheads for those missiles.

SEC. 1308. UNITED STATES BASES IN THE REPUBLIC OF THE PHILIPPINES

(a) CONGRESSIONAL FINDINGS.—Congress makes the following findings:

(1) The United States has maintained military bases in the Philippines since 1947 pursuant to the United States-Philippine Military Bases Agreement and maintained military bases in the Philippines for many years before that under other arrangements.

(2) Clark Air Force Base, Subic Bay Naval Base, and the other United States military installations in the Philippines significantly promote the mutual interests of the United States and the Philippines and contribute to regional and global security.

(3) These installations are also important to the development of democratic institutions and to economic progress in the Western Pacific and Southeast Asia.

(4) The United States military installations in the Philippines employ a loyal and highly skilled cadre of Filipinos and make a substantial contribution to the Philippine economy. 102 STAT. 2063

(5) The Military Bases Agreement as currently in effect has a fixed term lasting until September 16, 1991, after which it continues in effect subject to termination by either party on one year's notice.

(6) Pursuant to a 1979 amendment to that agreement, the President of the United States pledged to the Government of the Republic of the Philippines to undertake "best efforts" to obtain security assistance for the Philippines, and such pledge was reiterated by the President of the United States in 1983 as part of a five-year review of the agreement.

(7) The United States and the Republic of the Philippines are currently engaged in a second five-year review of the Military Bases Agreement.

(8) Officials of the Government of the Republic of the Philippines have indicated to officials of the United States that

the United States should significantly increase compensation for the use by the United States of military bases in the Philippines.

(9) The provision of multilateral economic assistance to the Republic of the Philippines should be considered separately from the provision of security assistance by the United States to the Republic of the Philippines in return for United States basing rights in the Philippines.

(b) REPORT ON FACILITIES.—(1) The Secretary of Defense shall submit to Congress a report on the existing United States military facilities in the Republic of the Philippines. The report shall include analysis of the following:

(A) The costs and benefits of maintaining those facilities, including the costs to the United States of the operation and maintenance of those facilities and any other costs associated with those facilities and the economic and social benefits and other benefits of those facilities to the Republic of the Philippines.

(B) Potential alternative locations for those facilities.

(C) The strategic value to the United States of having military facilities located in the Philippines and of having such facilities at the potential alternative locations considered.

(D) The costs and benefits of relocating those facilities to the potential alternative locations, including—

(i) the cost to the United States of operation and maintenance and other costs,

(ii) the economic, social, and other costs to the Philippines, and

(iii) the economic, social, and other benefits to the government and community at each alternative location.

(E) The availability of skilled indigenous personnel at the potential alternative locations and the cost of training such personnel to work at such installations.

(2) The report shall be prepared in consultation with the Secretary of State and shall be submitted to Congress not later than six months after the date of the enactment of this Act.

10 USC 113 note.

SEC. 1309. ANNUAL ASSESSMENT OF SECURITY AT UNITED STATES BASES IN THE PHILIPPINES

Reports.

The Secretary of Defense shall submit to Congress an annual report assessing security at United States military facilities in the Republic of the Philippines. Each such report shall include an assessment of the cooperation provided by the Philippine Government, at both the national and local level, in improving such security. The report required by this subsection shall be submitted to Congress not later than May 1 each year.

102 STAT. 2064

Human rights.

SEC. 1310. ECONOMIC SANCTIONS AGAINST ETHIOPIA

(a) STATEMENTS OF POLICY.—The Congress—

(1) condemns the Government of Ethiopia for its blatant disregard for human life as demonstrated by its use of food as a weapon, its forced resettlement program, and its human rights record;

(2) in the strongest terms possible, urges the Government of Ethiopia to allow foreign relief personnel to return to the north and to allow the international relief campaign to resume operations at its own risk, while retaining full control over its assets and having access to adequate aircraft and fuel;

(3) in the strongest terms possible, urges rebel groups to cease attacks upon relief vehicles and relief distribution points and to respect the impartiality of the international relief campaign;

(4) urges the President and the Secretary of State (through direct representations to the Government of Ethiopia and certain rebel groups and through sustained multilateral initiatives involving other Western donors, the United Nations, and the Organization of African Unity) to focus world pressure and

opinion upon the combatants in northern Ethiopia, to press for an "open roads/own risk" policy that will facilitate the resumption of international relief efforts in the north, to press the Government of Ethiopia and the rebel groups to reach a pragmatic, enduring political settlement, and to press the Government of Ethiopia to implement genuine and effective reform of its failed agricultural policies; and

(5) urges the President and the Secretary of State to engage in direct discussion with the Soviet Union in order that the peaceful resolution of the crisis in northern Ethiopia becomes a high priority of the Soviet Union and that the approach of the Soviet Union is consistent with that of the West.

(b) SANCTIONS.—(1) Notwithstanding any other provision of law, the President is authorized to, and is hereby strongly urged to, impose such economic sanctions upon Ethiopia as the President determines to be appropriate (subject to paragraphs (2) and (3)) if, at any time after the date of the enactment of this Act, the Government of Ethiopia engages in any of the following outrages: President of U.S.

(A) Forced resettlement.

(B) Forced confinement in any resettlement camp.

(C) Diversion of international relief to the military.

(D) Denial of international relief to any persons at risk because of famine.

(E) Seizure of international relief assets provided by the United States.

(F) Prohibition of end-use monitoring of food distribution by international relief personnel.

(2) In imposing sanctions pursuant to paragraph (1) on imports from Ethiopia, the President shall give priority consideration to those products which constitute major imports from Ethiopia, unless the President determines that sanctions against such products would have an adverse effect on economic interests of the United States.

102 STAT. 2065

(3) If a sanction imposed pursuant to paragraph (1) involves the prohibition or curtailment of exports to Ethiopia, that sanction may only be imposed under the authority and subject to the requirements of section 6 of the Export Administration Act of 1979.

(c) REPORTS TO CONGRESS.—Not more than 15 days after the date of the enactment of this Act and at the end of each 90-day period thereafter, the President shall submit to Congress a report stating whether or not, during the 90-day period preceding the date of the report, the Government of Ethiopia engaged in any conduct described in subsection (b). Each such report shall describe the response of the United States to any such conduct. President of U.S.

(d) REGULATION AUTHORITY.—The President shall issue such regulations, licenses, and orders as are necessary to implement any sanction imposed under this section. President of U.S.

(e) EXPIRATION.—The authority provided by subsection (b) shall expire on June 1, 1990.

TITLE XIV—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 1401. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1989 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,567,629,000, to be allocated as follows:

(A) For research and development, $1,052,546,000.
(B) For weapons testing, $524,238,000.
(C) For production and surveillance, $1,909,445,000.
(D) For program direction, $81,400,000.

(2) For defense nuclear materials production, $1,556,772,000 to be allocated as follows:
(A) For uranium enrichment for naval reactors, $169,000,000.
(B) For production reactor operations, $587,976,000.
(C) For processing of defense nuclear materials, including naval reactors fuel, $511,717,000, of which $72,300,000 shall be used for special isotope separation.
(D) For supporting services, $259,679,000.
(E) For program direction, $28,400,000.

(3) For environmental restoration and management of defense waste and transportation, $739,624,000, to be allocated as follows:
(A) For environmental restoration, $170,925,000. Such funds may also be used for plant and capital equipment.
(B) For waste operation and projects, $532,042,000.
(C) For waste research and development, $58,460,000.
(D) For hazardous waste process planning, $8,377,000.
(E) For transportation management, $9,720,000.
(F) For program direction, $3,100,000.

102 STAT. 2066

(4) For verification and control technology, $146,200,000.
(5) For nuclear materials safeguards and security technology development program, $75,400,000.
(6) For security investigations, $40,000,000.
(7) For naval reactors development, $555,400,000.

SEC. 1402. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1989 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:
Project 89-D-101, general plant projects, various locations, $26,500,000.
Project 89-D-121, general plant projects, various locations, $29,194,000.
Project 89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee, $2,000,000.
Project 89-D-125, plutonium recovery modification project, Rocky Flats Plant, Golden, Colorado, $4,000,000.
Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, $800,000.
Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $7,600,000.
Project 88-D-103, seismic upgrade, Building 111, Lawrence Livermore National Laboratory, Livermore, California, $5,400,000.
Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $7,300,000.
Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $22,000,000.
Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $72,352,000.
Project 88-D-122, facilities capability assurance program, various locations, $79,341,000.

Project 88-D-123, security enhancements, Pantex Plant, Amarillo, Texas, $7,500,000.

Project 88-D-124, fire protection upgrade, various locations, $6,500,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $13,000,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, $5,000,000.

Project 87-D-104, safeguards and security enhancement, Phase II, Lawrence Livermore National Laboratory, Livermore, California, $8,500,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $26,000,000. 102 STAT. 2067

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $12,000,000.

Project 86-D-104, strategic defenses facility, Sandia National Laboratories, Albuquerque, New Mexico, $3,237,000.

Project 86-D-123, environmental hazards elimination, various locations, $5,203,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $31,800,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $6,800,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, $12,200,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $1,281,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $4,775,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $2,775,000.

(2) For materials production:

Project 89-D-140, additional separations safeguards, Savannah River, South Carolina, $5,300,000.

Project 89-D-141, M-area waste disposal, Savannah River, South Carolina, $3,600,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $1,000,000.

Project 89-D-146, general plant projects, various locations, $35,260,000.

Project 89-D-148, improved reactor confinement system, design only, Savannah River, South Carolina, $2,000,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $5,700,000.

Project 88-D-154, new production reactor, design only, site to be determined, $35,000,000.

Project 87-D-152, environmental protection plantwide, Savannah River, South Carolina, $2,224,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, and III, Feed Materials Production Center, Fernald, Ohio, $50,000,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $28,000,000.

Project 86-D-149, productivity retention program, Phases I, II, III, and IV, various locations, $72,140,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $6,000,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $12,800,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $65,000,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $11,584,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $5,879,000.

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(3) For defense waste and environmental restoration:

Project 89-D-170, general plant projects, waste operations and projects, and waste research and development, various locations, $28,000,000.

Project 89-D-171, Idaho National Engineering Laboratory road renovation, Idaho, $4,000,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $12,000,000.

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, $1,800,000.

Project 89-D-174, replacement high level waste evaporator, Savannah River, South Carolina, $3,520,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $3,500,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $22,500,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $1,944,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $911,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $2,068,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $6,371,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho, $2,084,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $13,000,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $92,462,000.

(4) For naval reactors development:

Project 89-N-101, general plant projects, various locations, $7,000,000.

Project 89-N-102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,800,000.

Project 89-N-103, advanced test reactor modifications, Test Reactor Area, Idaho National Engineering Laboratory, Idaho, $1,600,000.

Project 89-N-104, power system upgrade, Naval Reactors Facility, Idaho, $600,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $5,900,000.

Project 88-N-103, material handling and storage modifications, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,700,000.

Project 88-N-104, prototype availability facilities, Knolls Atomic Power Laboratory, Kesselring Site, West Milton, New York, $6,000,000.

(5) For capital equipment not related to construction:

(A) For weapons activities, $272,254,000, including $8,240,000 for the defense inertial confinement fusion program.

(B) For materials production, $102,500,000.

(C) For defense waste and environmental restoration,

102 STAT. 2069

$52,716,000.

(D) For verification and control technology, $8,400,000.

(E) For nuclear safeguards and security, $4,800,000.

(F) For naval reactors development, $48,000,000.

SEC. 1403. FUNDING LIMITATIONS

(a) PROGRAMS, PROJECTS, AND ACTIVITIES OF THE DEPARTMENT OF ENERGY RELATING TO THE STRATEGIC DEFENSE INITIATIVE.—Of the funds appropriated to the Department of Energy for fiscal year 1989 for operating expenses and plant and capital equipment, not more than $262,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) INERTIAL CONFINEMENT FUSION.—Of the funds appropriated to the Department of Energy for fiscal year 1989 for operating expenses and plant and capital equipment, $163,770,000 shall be obligated or expended for the defense inertial confinement fusion program.

(c) SRAM II.—Funds appropriated to the Department of Energy for fiscal year 1989 for facilities for production of the warhead for the short-range attack missile II (SRAM II) (project 87-D-122) may be obligated only—

(1) for facilities which are suitable for production of a warhead compatible with both the SRAM-A and the SRAM II; and

(2) after the Nuclear Weapons Council certifies that the design of the warhead is compatible with both the SRAM-A and the SRAM II.

(d) SPECIAL ISOTOPE SEPARATION PROJECT.—Funds appropriated or otherwise made available to the Department of Energy for the special isotope separation project, Idaho Falls, Idaho, may not be obligated or expended for site preparation for such project before March 1, 1989.

(e) PLUTONIUM RECOVERY MODIFICATION PROJECT.—Funds appropriated or otherwise made available for the plutonium recovery modification project (project 89-D-125), Rocky Flats Plant, Golden, Colorado, may not be obligated or expended until the later of—

(1) 60 days after the President submits the report (relating to modernization of the nuclear weapons complex) required by section 3132 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1988 (title I of division C of Public Law 100-180; 101 Stat. 1239); or

President of U.S. Reports.

(2) February 15, 1989.

PART B—RECURRING GENERAL PROVISIONS

SEC. 1421. REPROGRAMMING

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this part—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

102 STAT. 2070

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 1422. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 1423. LIMITS ON CONSTRUCTION PROJECTS

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 1402 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 1424. FUND TRANSFER AUTHORITY

(a) IN GENERAL.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

102 STAT. 2071

(b) SPECIFIC TRANSFER.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1989 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research, development, and testing for nuclear directed energy weapons, including plant and capital equipment related thereto;

(2) shall be merged with the appropriations of the Department of Energy; and

(3) may not be included in calculating the amount of funds obligated or expended for purposes of the funding limitation in section 1403(a).

SEC. 1425. AUTHORITY FOR CONSTRUCTION DESIGN

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and on Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 1426. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 1402, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 1427. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 1421, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 1428. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

102 STAT. 2072

PART C—MISCELLANEOUS PROVISIONS

SEC. 1431. REVIEW OF THE INERTIAL CONFINEMENT FUSION PROGRAM

(a) ESTABLISHMENT.—(1) Within 30 days after the date of the enactment of this Act, the Secretary of Energy shall establish a review body to be known as the Program Review Group on Inertial Confinement Fusion (hereafter in this section referred to as the "Review Group").

(2) It shall be the function of the Review Group to review thoroughly the accomplishments, management, goals, and anticipated contributions of the defense inertial confinement fusion program, for both the civilian and military sectors. Such review shall include—

(A) an assessment of the most promising technologies for continuation of the program; and

(B) an assessment of the potential contributions of the program under a prohibition of underground nuclear testing and under a limitation of underground nuclear testing to levels of 1 kiloton, 5 kilotons, and 10 kilotons.

(3) The Secretary of Energy shall appoint to serve on the Review Group only persons who, because of experience in the scientific disciplines associated with the development and testing of nuclear weapons, are most qualified to make findings of fact and recommendations to Congress and the Secretary concerning that program.

(b) REPORTS.—The Review Group shall submit to the Secretary and the Committees on Armed Services and on Appropriations of the Senate and House of Representatives an interim report and a final report containing the results of its review, together with such recommendations regarding priorities for future work in the inertial confinement fusion program as it determines appropriate. The interim report shall be submitted before January 15, 1990, and the final report shall be submitted before September 15, 1990.

(c) REVIEW AND COMMENT BY THE SECRETARY.—(1) The Secretary of Energy shall review both the interim and final reports of the Review Group and submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives the following:

(A) An assessment of the budgetary priority, under current and anticipated budget restraints, that should be given to the inertial confinement fusion program of the Department of Energy in relation to the budgetary priority that should be given to core defense research and development programs of the Department to carry out the defense missions of the Department.

(B) Such additional comments regarding such reports as the Secretary considers appropriate.

(2) The Secretary shall submit his assessment and comments on each report referred to in subsection (b) not later than 30 days after receiving such report.

(d) TERMINATION.—Upon the submission of its final report, the Review Group shall cease to exist.

SEC. 1432. ASSISTANCE TO COMMUNITIES AFFECTED BY CLOSING OF N REACTOR

Grants.
Washington.

The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds made available under Federal programs administered by agencies other than the Department of Defense in order to assist the State of Washington and local communities near Hanford Reservation, Washington, in planning community adjustments required by the closure of the N Reactor.

102 STAT. 2073

SEC. 1433. REVIEW OF WASTE ISOLATION PILOT PLANT IN NEW MEXICO

Energy.
Public health and safety.
Environmental protection.

(a) CONTRACT REQUIREMENT.—The Secretary of Energy shall enter into a contract with the New Mexico Institute of Mining and Technology (hereafter in this section referred to as the "Institute") to conduct independent reviews and evaluations of the design, construction, and operations of the Waste Isolation Pilot Plant in New Mexico (hereafter in this section referred to as the "WIPP") as they relate to the protection of the public health and safety and the environment. The contract shall be for a period of one year, beginning on March 31, 1989, and shall be renewable for four additional one-year periods with the consent of the Institute and subject to the authorization and appropriation of funds for such purpose.

Effective date.

Science and technology.

(b) CONTENT OF CONTRACT.—A contract entered into under subsection (a) shall require the following:

(1) The President of the Institute shall appoint a Director and Deputy Director, who shall be scientists of national eminence in the field of nuclear waste disposal, shall be free from any biases related to the activities of the WIPP, and shall be widely known for their integrity and scientific expertise. The Director shall carry out the work under the contract through a group known as the Environmental Evaluation Group and shall report directly to the President of the Institute.

Reports.

(2) The Director shall appoint staff. The professional staff shall consist of scientists and engineers of recognized integrity and scientific expertise who represent scientific and engineering disciplines needed for a thorough review of the WIPP, including such disciplines as geology, hydrology, health physics, environmental engineering, probability risk analysis, mining engineering, and radiation chemistry. The disciplines represented in the staff shall change as may be necessary to meet changed needs in carrying out the contract for expertise in any certain scientific or engineering discipline. Scientists employed under the contract shall have qualifications and experience equivalent to the qualifications and experience required for scientists employed by the Federal Government in grades GS–13 through GS–16.

(3) Scientists employed under the contract shall have an appropriate support staff.

(4) The Director and Deputy Director shall each be appointed for a term of 5 years, subject to contract renewal, and may be removed only for misconduct or incompetence. The staff shall be appointed for such terms as the Director considers appropriate.

(5) The rates of pay of professional staff and the procedures for increasing the rates of pay of professional staff shall be equivalent to those rates and procedures provided for the General Schedule pay system under chapter 53 of title 5, United States Code. The fringe benefits available to the professional staff of the Institute shall also be available to professional staff under the contract.

(6) To the maximum extent practicable, preference in the hiring of staff for the Environmental Evaluation Group shall be given to persons involved in the scientific evaluation group for WIPP immediately before the date of the enactment of this Act. 102 STAT. 2074

(7) Offices of the Environmental Evaluation Group shall be established in Carlsbad, New Mexico, and in Albuquerque, New Mexico, for carrying out the contract. The Director shall designate one of the offices as the administrative headquarters for carrying out the contract.

(8) The results of reviews and evaluations carried out under the contract shall be published. Public information.

(c) ADMINISTRATION.—The contract entered into under subsection (a) shall be administered under the direction of the President of the Institute. Such President shall establish general policies and guidelines to be used by the Director in carrying out the work under the contract. The Director shall be solely responsible for determining reviews and evaluations to be conducted by the Environmental Evaluation Group.

(d) FUNDING.—Funding for the contract shall be from amounts appropriated under section 1401. The amount of the initial one-year contract shall be not less than $1,060,000.

(e) CONSTRUCTION.—Nothing in this section shall be construed as affecting actions undertaken before the date of the enactment of this Act in furtherance of the requirements of this section.

SEC. 1434. AUTHORITY TO LOAN PERSONNEL AND FACILITIES TO COMMUNITY DEVELOPMENT ORGANIZATIONS NEAR HANFORD RESERVATION

(a) AUTHORITY TO LOAN PERSONNEL.—(1) The Secretary of Energy shall allow each contractor and subcontractor of the Department of Energy carrying out operating, engineering, research and development, or construction management at the Hanford Reservation, Washington, to loan personnel in accordance with this section to the community development organization known as the Tri City Industrial Development Council serving Benton and Franklin counties, Washington. Any such loan shall be for the purpose of assisting in the diversification of the local economy by reducing reliance by local communities on national security programs at Hanford Reservation. Contracts. Energy. Washington.

(2) A contractor shall continue to compensate any personnel loaned by the contractor under paragraph (1). Any such compensation shall be allowed as a cost for which the Department of Energy may reimburse the contractor under the contract.

(3) The Secretary of Energy may not obligate or expend more than $500,000 in each of fiscal years 1989 and 1990 for loans of personnel under this section. The amount of such obligations or expenditures shall be measured by the cost of compensation paid to such personnel by the contractor and reimbursed by the Department of Energy.

(b) AUTHORITY TO LOAN FACILITIES.—The Secretary of Energy may loan facilities of the Federal Government being used by contractors of the Department of Energy at Hanford Reservation, Washington, to any community-based organization. However, any loan of a facility under this subsection may be made only if use of the facility by

such an organization would not adversely affect Department of Energy programs, as determined by the Secretary.

Termination date.

(c) DURATION OF PROGRAM.—The authority to loan personnel and facilities under this section, and the loan of any personnel or facilities pursuant to such authority, shall terminate on September 30, 1990.

102 STAT. 2075

Reports.

SEC. 1435. NEW PRODUCTION REACTOR

(a) RECOMMENDATIONS REGARDING NEW PRODUCTION REACTOR.—Not later than July 31, 1988, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the Secretary's recommendation for the site for construction of a new production reactor and the Secretary's recommendation for the preferred technology for a new production reactor.

(b) REPORT CONTAINING INFORMATION PERTAINING TO NEW PRODUCTION REACTOR.—At the same time the budget for fiscal year 1990 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing—

(1) a discussion of the administrative and legislative changes that would be necessary to shorten the time period necessary to attain the initial operational date of a new production reactor; and

(2) any recommendations for such additional action that the Secretary considers appropriate.

42 USC 2121 note.

SEC. 1436. NUCLEAR TEST BAN READINESS PROGRAM

(a) FINDINGS.—The Congress makes the following findings:

(1) On September 17, 1987, the United States and the Soviet Union announced that they would resume full-scale, stage-by-stage negotiations on issues relating to nuclear testing, including further intermediate limitations on nuclear testing leading to the ultimate objective of a comprehensive nuclear test ban.

(2) It was agreed that the first step in these negotiations would be to reach agreement on verification measures that will make possible the ratification of the Threshold Test Ban Treaty of 1974 and the Peaceful Nuclear Explosions Treaty of 1976.

(3) To achieve the agreement on verification measures, the United States and the Soviet Union have agreed to design and conduct a Joint Verification Experiment at the test sites of each country during the summer of 1988.

(4) At the Moscow summit in May 1988, President Reagan and General Secretary Gorbachev reaffirmed their commitment to negotiations on "effective verification measures which will make it possible to ratify the Threshold Test Ban Treaty of 1974 and Peaceful Nuclear Explosions Treaty of 1976, and proceed to negotiating further intermediate limitations on nuclear testing leading to the ultimate objective of the complete cessation of nuclear testing as part of an effective disarmament process".

Safety.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and support a program to assure that the United States is in a position to maintain the reliability, safety, and continued deterrent effect of its stockpile of existing nuclear weapons designs in the event that a low-threshold or comprehensive ban on nuclear explosives testing is negotiated and ratified within the framework agreed to by the United States and the Soviet Union.

Safety.

(c) PURPOSES OF PROGRAM.—The purposes of the program under subsection (b) shall be the following:

(1) To assure that the United States maintains a vigorous program of stockpile inspection and non-explosive testing so that, if a low-threshold or comprehensive test ban is entered into, the United States remains able to detect and identify

potential problems in stockpile reliability and safety in existing designs of nuclear weapons. 102 STAT. 2076

(2) To assure that the specific materials, components, processes, and personnel needed for the remanufacture of existing nuclear weapons or the substitution of alternative nuclear warheads are available to support such remanufacture or substitution if such action becomes necessary in order to satisfy reliability and safety requirements under a low-threshold or comprehensive test ban agreement.

(3) To assure that a vigorous program of research in areas related to nuclear weapons science and engineering is supported so that, if a low-threshold or comprehensive test ban agreement is entered into, the United States is able to maintain a base of technical knowledge about nuclear weapons design and nuclear weapons effects. Research and development.

(d) CONDUCT OF PROGRAM.—The Secretary of Energy shall carry out the program provided for in subsection (b). The program shall be carried out with the participation of representatives of the Department of Defense, the nuclear weapons production facilities, and the national nuclear weapons laboratories.

(e) ANNUAL REPORT.—The Secretary of Energy shall submit to Congress each year an unclassified report (with a classified annex as necessary) that describes the progress made to the date of the report in achieving the purposes of the program required to be established under subsection (b). Public information. Classified information.

PART D—DOE DEFENSE NUCLEAR FACILITIES SAFETY OVERSIGHT BOARD

SEC. 1441. ESTABLISHMENT OF DEFENSE NUCLEAR FACILITIES SAFETY BOARD

(a) ESTABLISHMENT.—(1) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by adding at the end the following new chapter:

"CHAPTER 21. DEFENSE NUCLEAR FACILITIES SAFETY BOARD

"SEC. 311. ESTABLISHMENT. 42 USC 2286.

"(a) ESTABLISHMENT.—There is hereby established an independent establishment in the executive branch, to be known as the 'Defense Nuclear Facilities Safety Board' (hereafter in this chapter referred to as the 'Board').

"(b) MEMBERSHIP.—(1) The Board shall be composed of five members appointed from civilian life by the President, by and with the advice and consent of the Senate, from among United States citizens who are respected experts in the field of nuclear safety with a demonstrated competence and knowledge relevant to the independent investigative and oversight functions of the Board. Not more than three members of the Board shall be of the same political party. President of U.S.

"(2) Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

"(3) No member of the Board may be an employee of, or have any significant financial relationship with, the Department of Energy or any contractor of the Department of Energy. 102 STAT. 2077

"(4) Not later than 180 days after the date of the enactment of this chapter, the President shall submit to the Senate nominations for appointment to the Board. In the event that the President is unable to submit the nominations within such 180-day period, the President shall submit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives a report describing the reasons for such inability and a plan for submitting the nominations within the next 90 days. If the President is unable to submit the nominations within that 90-day President of U.S. Reports. 42 USC 2286.

period, the President shall again submit to such committees and the Speaker such a report and plan. The President shall continue to submit to such committees and the Speaker such a report and plan every 90 days until the nominations are submitted.

President of U.S.

"(c) CHAIRMAN AND VICE CHAIRMAN.—(1) The President shall designate a Chairman and Vice Chairman of the Board from among members of the Board.

"(2) The Chairman shall be the chief executive officer of the Board and, subject to such policies as the Board may establish, shall exercise the functions of the Board with respect to—

"(A) the appointment and supervision of employees of the Board;

"(B) the organization of any administrative units established by the Board; and

"(C) the use and expenditure of funds.

"(3) The Chairman may delegate any of the functions under this paragraph to any other member or to any appropriate officer of the Board.

"(4) The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman.

"(d) TERMS.—(1) Except as provided under paragraph (2), the members of the Board shall serve for terms of five years. Members of the Board may be reappointed.

"(2) Of the members first appointed—

"(A) one shall be appointed for a term of one year;

"(B) one shall be appointed for a term of two years;

"(C) one shall be appointed for a term of three years;

"(D) one shall be appointed for a term of four years; and

"(E) one shall be appointed for a term of five years,

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term of office for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of that member's term until a successor has taken office.

"(e) QUORUM.—Three members of the Board shall constitute a quorum, but a lesser number may hold hearings.

42 USC 2286a.

"SEC. 312. FUNCTIONS OF THE BOARD.

"The Board shall perform the following functions:

"(1) REVIEW AND EVALUATION OF STANDARDS.—The Board shall review and evaluate the content and implementation of the standards relating to the design, construction, operation, and decommissioning of defense nuclear facilities of the Department of Energy (including all applicable Department of Energy orders, regulations, and requirements) at each Department of Energy defense nuclear facility. The Board shall recommend to the Secretary of Energy those specific measures that should be adopted to ensure that public health and safety are adequately protected. The Board shall include in its recommendations necessary changes in the content and implementation of such standards, as well as matters on which additional data or additional research is needed.

102 STAT. 2078

"(2) INVESTIGATIONS.—(A) The Board shall investigate any event or practice at a Department of Energy defense nuclear facility which the Board determines has adversely affected, or may adversely affect, public health and safety.

"(B) The purpose of any Board investigation under subparagraph (A) shall be—

"(i) to determine whether the Secretary of Energy is adequately implementing the standards described in paragraph (1) of the Department of Energy (including all applicable Department of Energy orders, regulations, and requirements) at the facility;

"(ii) to ascertain information concerning the circumstances of such event or practice and its implications for such standards;

"(iii) to determine whether such event or practice is related to other events or practices at other Department of Energy defense nuclear facilities; and

"(iv) to provide to the Secretary of Energy such recommendations for changes in such standards or the implementation of such standards (including Department of Energy orders, regulations, and requirements) and such recommendations relating to data or research needs as may be prudent or necessary.

"(3) ANALYSIS OF DESIGN AND OPERATIONAL DATA.—The Board shall have access to and may systematically analyze design and operational data, including safety analysis reports, from any Department of Energy defense nuclear facility.

"(4) REVIEW OF FACILITY DESIGN AND CONSTRUCTION.—The Board shall review the design of a new Department of Energy defense nuclear facility before construction of such facility begins and shall recommend to the Secretary, within a reasonable time, such modifications of the design as the Board considers necessary to ensure adequate protection of public health and safety. During the construction of any such facility, the Board shall periodically review and monitor the construction and shall submit to the Secretary, within a reasonable time, such recommendations relating to the construction of that facility as the Board considers necessary to ensure adequate protection of public health and safety. An action of the Board, or a failure to act, under this paragraph may not delay or prevent the Secretary of Energy from carrying out the construction of such a facility.

"(5) RECOMMENDATIONS.—The Board shall make such recommendations to the Secretary of Energy with respect to Department of Energy defense nuclear facilities, including operations of such facilities, standards, and research needs, as the Board determines are necessary to ensure adequate protection of public health and safety. In making its recommendations the Board shall consider the technical and economic feasibility of implementing the recommended measures.

102 STAT. 2079

"SEC. 313. POWERS OF BOARD.

42 USC 2286b.

"(a) HEARINGS.—(1) The Board or a member authorized by the Board may, for the purpose of carrying out this chapter, hold such hearings and sit and act at such times and places, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such evidence as the Board or an authorized member may find advisable.

"(2)(A) Subpoenas may be issued only under the signature of the Chairman or any member of the Board designated by him and shall be served by any person designated by the Chairman, any member, or any person as otherwise provided by law. The attendance of witnesses and the production of evidence may be required from any place in the United States at any designated place of hearing in the United States.

"(B) Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(C) If a person issued a subpoena under paragraph (1) refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt of the court.

"(D) The subpoenas of the Board shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

"(E) All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

"(b) STAFF.—The Board may, for the purpose of performing its responsibilities under this chapter—

"(1) hire such staff as it considers necessary to perform the functions of the Board, but not more than the equivalent of 100 full-time employees; and

"(2) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Board determines to be reasonable.

"(c) REGULATIONS.—The Board may prescribe regulations to carry out the responsibilities of the Board under this chapter.

"(d) REPORTING REQUIREMENTS.—The Board may establish reporting requirements for the Secretary of Energy which shall be binding upon the Secretary. The information which the Board may require the Secretary of Energy to report under this subsection may include any information designated as classified information, or any information designated as safeguards information and protected from disclosure under section 147 or 148 of this Act.

Classified information.

"(e) USE OF GOVERNMENT FACILITIES, ETC.—The Board may, for the purpose of carrying out its responsibilities under this chapter, use any facility, contractor, or employee of any other department or agency of the Federal Government with the consent of and under appropriate support arrangements with the head of such department or agency and, in the case of a contractor, with the consent of the contractor.

102 STAT. 2080

42 USC 2286b.

"(f) ASSISTANCE FROM CERTAIN AGENCIES OF THE FEDERAL GOVERNMENT.—With the consent of and under appropriate support arrangements with the Nuclear Regulatory Commission, the Board may obtain the advice and recommendations of the staff of the Commission on matters relating to the Board's responsibilities and may obtain the advice and recommendations of the Advisory Committee on Reactor Safeguards on such matters.

"(g) ASSISTANCE FROM ORGANIZATIONS OUTSIDE THE FEDERAL GOVERNMENT.—The Board may enter into an agreement with the National Research Council of the National Academy of Sciences or any other appropriate group or organization of experts outside the Federal Government chosen by the Board to assist the Board in carrying out its responsibilities under this chapter.

"(h) RESIDENT INSPECTORS.—The Board may assign staff to be stationed at any Department of Energy defense nuclear facility to carry out the functions of the Board.

"(i) SPECIAL STUDIES.—The Board may conduct special studies pertaining to adequate protection of public health and safety at any Department of Energy defense nuclear facility.

"(j) EVALUATION OF INFORMATION.—The Board may evaluate information received from the scientific and industrial communities, and from the interested public, with respect to—

"(1) events or practices at any Department of Energy defense nuclear facility; or

"(2) suggestions for specific measures to improve the content of standards described in section 312(1), the implementation of such standards, or research relating to such standards at Department of Energy defense nuclear facilities.

"SEC. 314. RESPONSIBILITIES OF THE SECRETARY OF ENERGY.

42 USC 2286c.

Contracts.

"(a) COOPERATION.—The Secretary of Energy shall fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information as the Board considers nec-

essary to carry out its responsibilities under this chapter. Each contractor operating a Department of Energy defense nuclear facility under a contract awarded by the Secretary shall, to the extent provided in such contract or otherwise with the contractor's consent, fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information of the contractor as the Board considers necessary to carry out its responsibilities under this chapter.

"(b) ACCESS TO INFORMATION.—The Secretary of Energy may deny access to information provided to the Board to any person who—

"(1) has not been granted an appropriate security clearance or access authorization by the Secretary of Energy; or

"(2) does not need such access in connection with the duties of such person.

"SEC. 315. BOARD RECOMMENDATIONS.

42 USC 2286d.
Federal Register, publication.

"(a) PUBLIC AVAILABILITY AND COMMENT.—Subject to subsections (g) and (h) and after receipt by the Secretary of Energy of any recommendations from the Board under section 312, the Board promptly shall make such recommendations available to the public in the Department of Energy's regional public reading rooms and shall publish in the Federal Register such recommendations and a request for the submission to the Board of public comments on such recommendations. Interested persons shall have 30 days after the date of the publication of such notice in which to submit comments, data, views, or arguments to the Board concerning the recommendations.

102 STAT. 2081

"(b) RESPONSE BY SECRETARY.—(1) The Secretary of Energy shall transmit to the Board, in writing, a statement on whether the Secretary accepts or rejects, in whole or in part, the recommendations submitted to him by the Board under section 312, a description of the actions to be taken in response to the recommendations, and his views on such recommendations. The Secretary of Energy shall transmit his response to the Board within 45 days after the date of the publication, under subsection (a), of the notice with respect to such recommendations or within such additional period, not to exceed 45 days, as the Board may grant.

Federal Register, publication.

"(2) At the same time as the Secretary of Energy transmits his response to the Board under paragraph (1), the Secretary, subject to subsection (h), shall publish such response, together with a request for public comment on his response, in the Federal Register.

"(3) Interested persons shall have 30 days after the date of the publication of the Secretary of Energy's response in which to submit comments, data, views, or arguments to the Board concerning the Secretary's response.

"(4) The Board may hold hearings for the purpose of obtaining public comments on its recommendations and the Secretary of Energy's response.

"(c) PROVISION OF INFORMATION TO SECRETARY.—The Board shall furnish the Secretary of Energy with copies of all comments, data, views, and arguments submitted to it under subsection (a) or (b).

"(d) FINAL DECISION.—If the Secretary of Energy, in a response under subsection (b)(1), rejects (in whole or part) any recommendation made by the Board under section 312, the Board shall either reaffirm its original recommendation or make a revised recommendation and shall notify the Secretary of its action. Within 30 days after receiving the notice of the Board's action under this subsection, the Secretary shall consider the Board's action and make a final decision on whether to implement all or part of the Board's recommendations. Subject to subsection (h), the Secretary shall publish the final decision and the reasoning for such decision in the Federal Register and shall transmit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives a written report containing that decision and reasoning.

Federal Register, publication.
Reports.

"(e) IMPLEMENTATION PLAN.—The Secretary of Energy shall prepare a plan for the implementation of each Board recommendation,

or part of a recommendation, that is accepted by the Secretary in his final decision. The Secretary shall transmit the implementation plan to the Board within 90 days after the date of the publication of the Secretary's final decision on such recommendation in the Federal Register. The Secretary may have an additional 45 days to transmit the plan if the Secretary submits to the Board and to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives a notification setting forth the reasons for the delay and describing the actions the Secretary is taking to prepare an implementation plan under this subsection. The Secretary may implement any such recommendation (or part of any such recommendation) before, on, or after the date on which the Secretary transmits the implementation plan to the Board under this subsection.

102 STAT. 2082

"(f) IMPLEMENTATION.—(1) Subject to paragraph (2), not later than one year after the date on which the Secretary of Energy transmits an implementation plan with respect to a recommendation (or part thereof) under subsection (e), the Secretary shall carry out and complete the implementation plan. If complete implementation of the plan takes more than 1 year, the Secretary of Energy shall submit a report to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives setting forth the reasons for the delay and when implementation will be completed.

Reports.

"(2) If the Secretary of Energy determines that the implementation of a Board recommendation (or part thereof) is impracticable because of budgetary considerations, or that the implementation would affect the Secretary's ability to meet the annual nuclear weapons stockpile requirements established pursuant to section 91 of this Act, the Secretary shall submit to the President, to the Committees on Armed Services and on Appropriations of the Senate, and to the Speaker of the House of Representatives a report containing the recommendation and the Secretary's determination.

Reports.

"(g) IMMINENT OR SEVERE THREAT.—(1) In any case in which the Board determines that a recommendation submitted to the Secretary of Energy under section 312 relates to an imminent or severe threat to public health and safety, the Board and the Secretary of Energy shall proceed under this subsection in lieu of subsections (a) through (d).

Public health and safety.

"(2) At the same time that the Board transmits a recommendation relating to an imminent or severe threat to the Secretary of Energy, the Board shall also transmit the recommendation to the President and for information purposes to the Secretary of Defense. The Secretary of Energy shall submit his recommendation to the President. The President shall review the Secretary of Energy's recommendation and shall make the decision concerning acceptance or rejection of the Board's recommendation.

President of U.S.

"(3) After receipt by the President of the recommendation from the Board under this subsection, the Board promptly shall make such recommendation available to the public and shall transmit such recommendation to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives. The President shall promptly notify such committees and the Speaker of his decision and the reasons for that decision.

Public information.

President of U.S.

"(h) LIMITATION.—Notwithstanding any other provision of this section, the requirements to make information available to the public under this section—

"(1) shall not apply in the case of information that is classified; and

"(2) shall be subject to the orders and regulations issued by the Secretary of Energy under sections 147 and 148 of this Act to prohibit dissemination of certain information.

42 USC 2286e.

"SEC. 316. REPORTS.

"(a) BOARD REPORT.—(1) The Board shall submit to the Committees on Armed Services and on Appropriations of the Senate and to

the Speaker of the House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, United States Code, a written report concerning its activities under this chapter, including all recommendations made by the Board, during the year preceding the year in which the report is submitted. The Board may also issue periodic unclassified reports on matters within the Board's responsibilities.

102 STAT. 2083

42 USC 2286e.

"(2) The annual report under paragraph (1) shall include an assessment of—

"(A) the improvements in the safety of Department of Energy defense nuclear facilities during the period covered by the report;

"(B) the improvements in the safety of Department of Energy defense nuclear facilities resulting from actions taken by the Board or taken on the basis of the activities of the Board; and

"(C) the outstanding safety problems, if any, of Department of Energy defense nuclear facilities.

"(b) DOE REPORT.—The Secretary of Energy shall submit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, United States Code, a written report concerning the activities of the Department of Energy under this chapter during the year preceding the year in which the report is submitted.

"SEC. 317. JUDICIAL REVIEW.

42 USC 2286f.

"Chapter 7 of title 5, United States Code, shall apply to the activities of the Board under this chapter.

"SEC. 318. DEFINITION.

42 USC 2286g.

"As used in this chapter, the term 'Department of Energy defense nuclear facility' means any of the following:

"(1) A production facility or utilization facility (as defined in section 11 of this Act) that is under the control or jurisdiction of the Secretary of Energy and that is operated for national security purposes, but the term does not include—

"(A) any facility or activity covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program;

"(B) any facility or activity involved with the assembly or testing of nuclear explosives or with the transportation of nuclear explosives or nuclear material; or

"(C) any facility that does not conduct atomic energy defense activities.

"(2) A nuclear waste storage facility under the control or jurisdiction of the Secretary of Energy, but the term does not include a facility developed pursuant to the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) and licensed by the Nuclear Regulatory Commission.

"SEC. 319. CONTRACT AUTHORITY SUBJECT TO APPROPRIATIONS.

42 USC 2286h.

"The authority of the Board to enter into contracts under this chapter is effective only to the extent that appropriations (including transfers of appropriations) are provided in advance for such purpose.

102 STAT. 2084

"SEC. 320. ANNUAL AUTHORIZATION OF APPROPRIATIONS.

42 USC 2286i.

"Authorizations of appropriations for the Board for fiscal years beginning after fiscal year 1989 shall be provided annually in authorization Acts.".

(2) The table of contents at the beginning of the Atomic Energy Act of 1954 is amended by adding at the end the following:

"CHAPTER 21. DEFENSE NUCLEAR FACILITIES SAFETY BOARD

"Sec. 311. Establishment.
"Sec. 312. Functions of the Board.
"Sec. 313. Powers of Board.
"Sec. 314. Responsibilities of the Secretary of Energy.
"Sec. 315. Board recommendations.
"Sec. 316. Reports.
"Sec. 317. Judicial review.
"Sec. 318. Definition.
"Sec. 319. Contract authority subject to appropriations.
"Sec. 320. Annual authorization of appropriations.".

(b) SALARY FOR BOARD MEMBERS AT EXECUTIVE SCHEDULE LEVEL III.—Section 5314 of title 5, United States Code, is amended by inserting after "Members, Nuclear Regulatory Commission." the following:

"Members, Defense Nuclear Facilities Safety Board.".

42 USC 2286e note.

(c) REQUIREMENTS FOR FIRST ANNUAL REPORT.—(1) Before submission of the first annual report by the Defense Nuclear Facilities Safety Board under section 316(a) of the Atomic Energy Act of 1954 (as added by subsection (a)), the Board shall conduct a study on whether nuclear facilities of the Department of Energy that are excluded from the definition of "Department of Energy defense nuclear facility" in section 318(1)(C) of such Act (hereafter in this subsection referred to as "non-defense nuclear facilities") should be subject to independent external oversight. The Board shall include in such first annual report the results of such study and the recommendation of the Board on whether non-defense nuclear facilities should be subject to independent external oversight.

(2) If the Board recommends in the report that non-defense nuclear facilities should be subject to such oversight, the report shall include a discussion of alternative mechanisms for implementing such oversight, including mechanisms such as a separate executive agency and oversight as a part of the Board's responsibilities. The discussion of alternative mechanisms of oversight also shall include considerations of budgetary costs, protection of the security of sensitive nuclear weapons information, and the similarities and differences in the design, construction, operation, and decommissioning of defense and non-defense nuclear facilities of the Department of Energy.

(d) REQUIREMENTS FOR FIFTH ANNUAL REPORT.—The fifth annual report submitted by the Defense Nuclear Facilities Safety Board under section 316(a) of the Atomic Energy Act of 1954 (as added by subsection (a)) shall include—

(1) an assessment of the degree to which the overall administration of the Board's activities are believed to meet the objectives of Congress in establishing the Board;

(2) recommendations for continuation, termination, or modification of the Board's functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

102 STAT. 2085

(3) recommendations for appropriate transition requirements in the event that modifications are recommended.

SEC. 1442. TRANSFER

The Secretary of Energy, to the extent provided in appropriations Acts, shall transfer to the Defense Nuclear Facilities Safety Board established by section 311 of the Atomic Energy Act of 1954 (as added by section 1441) from sums available for obligation for national security programs such sums as may be necessary, as determined by such Board, for the operation of the Board during fiscal year 1989, but in no case may more than $7,000,000 be transferred for such purpose. Sums transferred shall be available to such Board to carry out its responsibilities under chapter 21 of the Atomic Energy Act of 1954 (as added by section 1441) and shall remain available until expended.

TITLE XV—NATIONAL DEFENSE STOCKPILE

SEC. 1501. AUTHORIZED DISPOSALS

50 USC 98d note.

(a) AUTHORITY.—Notwithstanding section 5(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(b)) but subject to subsection (c), the President may during fiscal year 1989 dispose of materials in the National Defense Stockpile in accordance with this section. The value of the materials disposed of may not exceed $180,000,000 and may only be made as specified in subsection (b).

(b) MATERIALS AUTHORIZED TO BE DISPOSED.—Any disposal pursuant to the authority in subsection (a) shall be made from materials in the National Defense Stockpile previously authorized for disposal by law and from the following materials in the National Defense Stockpile, such materials having been determined to be excess to stockpile requirements:

Material	Quantities
Asbestos, chrysotile	2,100 short tons
Asbestos, crocidolite	36 short tons
Celestite	13,500 short dry tons
Iodine	772,000 pounds
Kyanite	1,200 short dry tons
Manganese dioxide, battery grade, natural ore	65,000 short dry tons
Mercury	7,500 flasks
Mica, muscovite block (S&L)	181,000 pounds
Mica, muscovite splittings	750,000 pounds
Mica, phlogopite splittings	589,000 pounds
Quartz	1,249,000 pounds
Silicon Carbide	44,000 short tons
Talc, block and lump	990 short tons
Talc, ground	1,100 short tons
Thorium nitrate	6,520,000 pounds
Tin	5,000 metric tons
Tungsten ores and concentrates	1,000,000 pounds
Vegetable tannin chestnut	3,500 long tons
Vegetable tannin quebracho	77,000 long tons

(c) DISPOSALS DURING FISCAL YEAR 1989.—The President may dispose of materials under this section during fiscal year 1989 only to the extent that the total amount received (or to be received) from such disposals does not exceed the amount expended from the National Defense Stockpile Transaction Fund during fiscal year 1989 for purposes authorized under section 9(b)(2) of such Act.

102 STAT. 2086

SEC. 1502. AUTHORIZATION OF ACQUISITIONS

(a) ACQUISITIONS.—During fiscal year 1989, the President shall obligate $180,000,000 out of the funds of the National Defense Stockpile Transaction Fund (subject to such limitations as may be provided in appropriations Acts) for the following purposes:

(1) The acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)).

(2) Transportation, storage, and other incidental expenses related to such acquisition.

(3) The upgrading of stockpile materials under section 6(a)(3) of such Act (50 U.S.C. 98e(a)(3)) and evaluations, tests, and other incidental expenses related to such upgrades.

(4) Other authorized uses of such funds under section 9(b)(2) of such Act (50 U.S.C. 98h(b)(2)).

(b) NEW UPGRADE PROGRAMS.—Of the amount specified in subsection (a), at least $20,000,000 shall be obligated to initiate new programs for upgrading stockpile materials. The Stockpile Manager shall submit to Congress by October 1, 1988, a report containing a plan for the use of such $20,000,000 for upgrading stockpile materials.

Reports.

SEC. 1503. TECHNICAL AND CLARIFYING AMENDMENTS

(a) SEMI-ANNUAL REPORT.—Section 11(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-2(a)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraphs:

"(3) information with respect to the activities by the Stockpile Manager to encourage the conservation, substitution, and development of strategic and critical materials within the United States;

"(4) information with respect to the research and development activities conducted under sections 2 and 8;".

(b) ANNUAL MATERIALS PLAN.—Section 11(b) of such Act (50 U.S.C. 98h-2(b)) is amended—

(1) in the first sentence, by striking out "such fiscal year" and inserting in lieu thereof "the next fiscal year";

(2) in the second sentence, by striking out "planned" and all that follows through "critical materials" and inserting in lieu thereof "all planned expenditures from the National Defense Stockpile Transaction Fund"; and

(3) by adding at the end the following new sentence: "Any proposed expenditure or disposal detailed in the annual materials plan for any such fiscal year, and any expenditure or disposal proposed in connection with any transaction submitted for such fiscal year to the appropriate committees of Congress pursuant to section 5(a)(2), that is not obligated or executed in that fiscal year may not be obligated or executed until such proposed expenditure or disposal is resubmitted in a subsequent annual materials plan or is resubmitted to the appropriate committees of Congress in accordance with section 5(a)(2), as appropriate.".

102 STAT. 2087

TITLE XVI—CIVIL DEFENSE

SEC. 1601. AUTHORIZATION OF APPROPRIATION

There is hereby authorized to be appropriated $147,893,000 for fiscal year 1989 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

Military Construction Authorization Act, 1989.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act, 1989".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $6,000,000.
Fort McClellan, $7,900,000.
Redstone Arsenal, $14,800,000.
Fort Rucker, $2,110,000.

ALASKA

Fort Wainwright, $29,740,000.
Fort Richardson, $6,250,000.

ARIZONA

Fort Huachuca, $1,200,000.

ARKANSAS

Pine Bluff Arsenal, $7,500,000.

CALIFORNIA

Fort Ord, $13,050,000.
Sierra Army Depot, $380,000.

COLORADO

Pueblo Army Depot, $3,200,000.

DISTRICT OF COLUMBIA

Walter Reed Army Medical Center, $1,600,000.

GEORGIA

Fort Benning, $24,350,000.

HAWAII

Fort Shafter, $7,200,000.
Schofield Barracks, $8,500,000.

ILLINOIS

Rock Island Arsenal, $10,980,000.
Savanna Army Depot, $2,270,000.
Fort Sheridan, $3,280,000.

KENTUCKY

Fort Campbell, $20,500,000.
Lexington-Bluegrass Depot, $770,000.

MARYLAND

Aberdeen Proving Ground, $17,000,000.
Fort Detrick, $6,500,000.
Fort Ritchie, $9,100,000.

NEW JERSEY

Fort Dix, $6,200,000.

NEW YORK

United States Military Academy, West Point, $11,150,000.

NORTH CAROLINA

Fort Bragg, $36,602,000.

OKLAHOMA

Fort Sill, $3,700,000.

OREGON

Umatilla Army Depot, $3,600,000.

PENNSYLVANIA

Letterkenny Army Depot, $1,900,000.

TEXAS

Fort Bliss, $3,800,000.
Corpus Christi Army Depot, $7,400,000.
Fort Hood, $15,900,000.
Red River Army Depot, $88,400,000.
Fort Sam Houston, $3,250,000.

UTAH

Dugway Proving Ground, $12,800,000.
Tooele Army Depot, $92,300,000.

VIRGINIA

102 STAT. 2089

Fort A.P. Hill, $9,900,000.
Fort Eustis, $5,000,000.
Fort Lee, $4,800,000.
Fort Pickett, $4,000,000.
Vint Hill Farms Station, $800,000.

WASHINGTON

Fort Lewis, $19,800,000.

WISCONSIN

Fort McCoy, $2,100,000.

VARIOUS LOCATIONS

Classified Locations, $3,600,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Ansbach, $15,000,000.
Friedberg, $1,300,000.
Giessen, $6,300,000.
Grafenwoehr Training Area, $7,000,000.
Hohenfels Training Area, $36,960,000.
Karlsruhe, $2,550,000.
Mainz, $19,550,000.
Mannheim, $14,400,000.
Rheinberg, $12,400,000.
Schweinfurt, $9,700,000.
Stuttgart, $3,350,000.
Vilseck, $44,600,000.
Wiesbaden, $13,900,000.
Worms, $1,300,000.
Wuerzburg, $33,650,000.
Various Locations, $18,000,000.

HONDURAS

Site 5, $3,050,000.

ITALY

Various Locations, $1,250,000.

JAPAN

Various Locations, $7,900,000.
Various Locations, $5,300,000.

KOREA

Camp Casey, $3,700,000.
Camp Gary Owen, $1,150,000.
Camp Greaves, $1,540,000.
Camp Hovey, $3,200,000.
Camp Kittyhawk, $1,350,000.
Camp Libby, $1,150,000.
Camp Page, $670,000.
Camp Sears, $1,100,000.
Camp Stanley, $1,200,000.
Camp Stanton, $1,400,000.
K-16 Army Airfield, $670,000.
Taegu, $990,000.
Yongsan, $1,400,000.
Various Locations, $6,200,000.
Various Locations, $9,200,000.

102 STAT. 2090

KWAJALEIN

Kwajalein, $15,490,000.

VARIOUS LOCATIONS

Various Locations, $9,750,000.

SEC. 2102. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Wainwright, Alaska, one hundred and fifty units, $27,000,000.
Fort Irwin, California, two hundred and sixty-three units, $24,000,000.
Helemano, Hawaii, one hundred units, $11,400,000.
Schofield Barracks, Hawaii, forty units, $4,450,000.
Fort Leavenworth, Kansas, two hundred and seventy-two units, $20,000,000.
Fort Drum, New York, one hundred units, $10,000,000.
Fort Bliss, Texas, one hundred and eight units, $9,100,000.
Augsburg, Germany, thirty-four units, as described in section 2103(b).
Hohenfels, Germany, eighty-eight units, $8,400,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $10,628,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), improve existing military family housing units in an amount not to exceed $72,300,000.

(b) WAIVER OF MAXIMUM PER COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Pearl Harbor, Hawaii, eight units, $550,000.

102 STAT. 2091

Augsburg, Germany, convert unused attic space and upgrade fourteen units into forty-eight adequate units, as authorized in section 2102(a), $3,360,000.

Taegu, Korea, ninety-six units, $4,450,000.

SEC. 2104. DFFENSE ACCESS ROADS

The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(4), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Fort Belvoir, Virginia, in the amount of $1,000,000.

SEC. 2105. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,417,701,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $463,182,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $299,620,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,200,000.

(4) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $1,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $98,328,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing facilities, $197,278,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,340,093,000, of which not more than $52,190,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $183,600,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,000,000, to remain in effect until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $78,000,000 (the balance of the amount authorized for the construction of the Central Distribution Center, Red River Army Depot, Texas).

102 STAT. 2092

Termination dates.

SEC. 2106. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661) and section 2105(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180) shall

remain in effect until October 1, 1989, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1990, whichever is later:

(1) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(2) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(3) Barracks with dining facility in the amount of $1,400,000 at Presidio of San Francisco, California.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in sections 101 and 102 of that Act as extended by section 2105(b) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 99-180), shall remain in effect until October 1, 1989, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1990, whichever is later:

(1) Child care center in the amount of $470,000 at Karlsruhe, Germany.

(2) Modified record fire range in the amount of $2,850,000 at Nuernberg, Germany.

(3) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(4) Air conditioning upgrade in the amount of $5,900,000 at Schofield Barracks, Hawaii.

(5) Child care center in the amount of $1,350,000 at Camp Darby, Italy.

(6) Dining facility modernization in the amount of $4,350,000 at Fort Leavenworth, Kansas.

(7) Family housing, new construction, 6 units, in the amount of $596,000 at Fort Myer, Virginia.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987, (division B of Public Law 99-661), authorizations for the following projects authorized in sections 2101, 2102, and 2103 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1990, whichever is later:

(1) Primary water supply connection in the amount of $2,150,000 at Fort Riley, Kansas.

(2) Material test facility in the amount of $9,700,000 at Dugway Proving Ground, Utah.

(3) Barracks modernization in the amount of $3,700,000 at foreign various location 276. 102 STAT. 2093

(4) Dining facility in the amount of $2,100,000 at Giessen, Germany.

(5) Aircraft maintenance hangar in the amount of $7,100,000 at Hanau, Germany.

(6) Seventy manufactured home spaces in the amount of $1,100,000 at Aberdeen Proving Ground, Maryland.

(7) Family housing, new construction, 40 units in the amount of $4,100,000 at Crailsheim, Germany.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Naval Station, Mobile, $19,700,000.

ALASKA

David Taylor Research Center Detachment, Ketchikan, $12,000,000.
Naval Air Station, Adak, $29,000,000.

ARIZONA

Marine Corps Air Station, Yuma, $11,770,000.

CALIFORNIA

Marine Corps Air-Ground Combat Center, Twentynine Palms, $26,630,000.
Marine Corps Air Station, Camp Pendleton, $9,450,000.
Marine Corps Air Station, El Toro, $3,970,000.
Marine Corps Air Station, Tustin, $10,990,000.
Marine Corps Base, Camp Pendleton, $64,460,000.
Marine Corps Logistics Base, Barstow, $1,190,000.
Mountain Warfare Training Center, Bridgeport, $3,200,000.
Naval Air Station, Moffett Field, $650,000.
Naval Air Station, North Island, $6,150,000.
Naval Amphibious Base, Coronado, $870,000.
Naval Amphibious School, San Diego, $10,100,000.
Naval Aviation Depot, Alameda, $8,290,000.
Naval Aviation Depot, North Island, $2,110,000.
Naval Construction Battalion Center, Port Hueneme, $7,000,000.
Naval Construction Training Center, Port Hueneme, $10,080,000.
Naval Hospital, Lemoore, $2,160,000.
Naval Ocean Systems Center, San Diego, $8,660,000.
Naval Post Graduate School, Monterey, $3,140,000.
Naval Civil Engineer Corps Officers School, Port Hueneme, $7,420,000.
Naval Security Group Detachment, San Diego, $1,950,000.
Naval Shipyard, Mare Island, $6,450,000.
102 STAT. 2094 Naval Space Surveillance Field Station, San Diego, $3,760,000.
Naval Station, Treasure Island, San Francisco, $5,000,000.
Naval Submarine Base, San Diego, $3,150,000.
Naval Supply Center, Oakland, $1,550,000.
Naval Supply Center, San Diego Annex, North Island, $1,695,000.
Naval Training Center, San Diego, $7,980,000.
Naval Weapons Center, China Lake, $12,260,000.
Naval Weapons Station, Seal Beach, $13,890,000.
Navy Public Works Center, San Diego, $500,000.
Navy Public Works Center, San Francisco, $15,810,000.
Pacific Missile Test Center, Point Mugu, $20,470,000.
Personnel Support Activity, San Diego, $1,180,000.
Shore Intermediate Maintenance Activity, San Diego, $10,720,000.
Submarine Training Facility, San Diego, $10,301,000.

CONNECTICUT

Naval Security Group Activity, Groton, $1,170,000.
Naval Submarine Base, New London, $6,660,000.

DISTRICT OF COLUMBIA

Commandant, Naval District Washington, $38,100,000.
Naval Research Laboratory, Washington, $19,800,000.

FLORIDA

Naval Air Station, Cecil Field, $340,000.
Naval Air Station, Jacksonville, $8,810,000.
Naval Air Station, Key West, $850,000.

Naval Air Station, Pensacola, $25,600,000.
Naval Aviation Depot, Jacksonville, $14,180,000.
Naval Hospital, Pensacola, $2,250,000.
Naval Legal Service Office, Mayport, $1,450,000.
Naval Station, Mayport, $3,060,000.
Naval Supply Center, Pensacola, $2,640,000.
Naval Technical Training Center, Pensacola, $2,840,000.
Naval Training Center, Orlando, $23,810,000.

GEORGIA

Marine Corps Logistics Base, Albany, $5,740,000.
Naval Submarine Base, Kings Bay, $56,330,000.

HAWAII

Marine Corps Air Station, Kaneohe Bay, $24,270,000.
Naval Legal Service Office, Pearl Harbor, $2,380,000.
Naval Station, Pearl Harbor, $8,370,000.
Naval Submarine Base, Pearl Harbor, $11,250,000.
Naval Submarine Training Center, Pacific, Pearl Harbor, $1,780,000.
Naval Supply Center, Pearl Harbor, $8,350,000.
Navy Public Works Center, Pearl Harbor, $3,760,000.

ILLINOIS

Naval Training Center, Great Lakes, $3,440,000.
Naval Public Works Center, Great Lakes, $1,930,000.

KENTUCKY

Naval Ordnance Station, Louisville, $19,000,000.

LOUISIANA

Naval Station, Lake Charles, $3,700,000.

MAINE

Naval Air Station, Brunswick, $530,000.

MARYLAND

David Taylor Naval Ship Research Development Center, Annapolis, $1,860,000.
Naval Academy, Annapolis, $540,000.
Naval Air Test Center, Patuxent River, $1,250,000.
Naval Explosive Ordnance Disposal Technology Center, Indian Head, $7,380,000.
Naval Intelligence Command Headquarters, Suitland, $114,000,000.
Naval Medical Data Services Center, Bethesda, $5,930,000.
Naval Ordnance Station, Indian Head, $1,270,000.
Naval Surface Warfare Center Detachment, White Oak, $2,540,000.

MISSISSIPPI

Naval Air Station, Meridian, $3,100,000.
Naval Construction Training Center, Gulfport, $4,070,000.
Naval Station, Pascagoula, $25,700,000.
Supervisor of Shipbuilding, Pascagoula, $6,000,000.

NEVADA

Naval Air Station, Fallon, $9,470,000.

NEW JERSEY

Naval Weapons Station, Earle, $30,400,000.

NEW MEXICO

Naval Ordnance Missile Test Station, White Sands, $8,090,000.

NEW YORK

Naval Station, New York, $23,395,000.

NORTH CAROLINA

Marine Corps Air Station, Cherry Point, $32,380,000.
Marine Corps Air Station, New River, $8,400,000.
Marine Corps Base, Camp Lejeune, $23,450,000.

OKLAHOMA

Naval Air Detachment, Tinker Air Force Base, $38,080,000.

PENNSYLVANIA

Naval Air Development Center, Warminster, $1,270,000.
Naval Shipyard, Philadelphia, $10,300,000.
Navy Aviation Supply Office, Philadelphia, $1,400,000.
Navy Ships Parts Control Center, Mechanicsburg, $2,050,000.

RHODE ISLAND

Naval Education and Training Center, Newport, $11,560,000.
Naval Justice School, Newport, $2,060,000.
Surface Warfare Officers School Command, Newport, $4,750,000.

SOUTH CAROLINA

Naval Hospital, Beaufort, $2,260,000.
Naval Shipyard, Charleston, $640,000.
Naval Supply Center, Charleston, $1,090,000.
Naval Weapons Station, Charleston, $22,250,000.

TENNESSEE

Naval Air Station, Memphis, $10,090,000.

TEXAS

Naval Station, Galveston, $8,110,000.
Naval Station, Ingleside, $31,850,000.

VIRGINIA

Atlantic Fleet Headquarters Support Activity, Norfolk, $1,700,000.
Fleet Combat Training Center, Atlantic, Dam Neck, $4,700,000.
Marine Corps Combat Development Command, Quantico, $14,290,000.
Marine Corps Detachment, Camp Elmore, $1,690,000.
Marine Environmental Systems Facility, Dam Neck, $5,000,000.
Naval Air Station, Oceana, $2,690,000.
Naval Amphibious Base, Little Creek, $8,270,000.
Naval Amphibious School, Little Creek, $640,000.
Naval Aviation Depot, Norfolk, $8,950,000.
Naval Guided Missiles School, Dam Neck, $4,450,000.
Naval Legal Service Office, Norfolk, $1,080,000.
Naval Medical Clinic, Norfolk, $2,470,000.
Naval Ophthalmic Support and Training Activity, Yorktown, $1,970,000.
Naval Security Group Activity, Northwest, Chesapeake, $5,400,000.

Naval Supply Center, Norfolk, $6,660,000.
Naval Supply Center, Williamsburg, $3,300,000.
Naval Surface Warfare Center, Dahlgren, $25,442,000.
Naval Weapons Station, Yorktown, $12,360,000.
Navy Public Works Center, Norfolk, $4,410,000.

WASHINGTON

Naval Air Station, Whidbey Island, $11,010,000.
Naval Station, Everett, $38,400,000.
Naval Supply Center, Bremerton, $5,740,000.
Strategic Weapons Facility, Pacific, Silverdale, $15,060,000.
Trident Refit Facility, Bangor, $990,000.

102 STAT. 2097

VARIOUS LOCATIONS

Land Acquisition, $36,895,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ANTIGUA

Naval Support Facility, $6,470,000.

GUAM

Fleet Surveillance Support Group, $20,972,000.
Naval Security Group Detachment, $400,000.
Naval Supply Depot, $7,660,000.
Navy Public Works Center, $6,720,000.

ICELAND

Naval Air Station, Keflavik, $12,000,000.

ITALY

Naval Air Station, Sigonella, $7,950,000.
Naval Support Activity, Naples, $4,750,000.

JAPAN

Marine Corps Air Station, Futenma, Okinawa, $3,280,000.
Marine Corps Base, Camp Butler, Okinawa, $2,840,000.

PHILIPPINES

Navy Public Works Center, Subic Bay, $28,340,000.

SPAIN

Naval Communication Station, Rota, $400,000.

VARIOUS LOCATIONS

Classified Location, $4,990,000.
Host Nation Infrastructure Support, $500,000.

SEC. 2202. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(6)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units shown, and in the amount shown, for each installation:

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, one hundred units, $9,470,000.

Marine Corps Air Station, El Toro, California, one hundred
102 STAT. 2098 units and eighty mobile home spaces, $10,120,000.

Marine Corps Base, Camp Pendleton, California, three hundred and thirty-two units and access roads, $28,510,000.

Naval Station, Long Beach, California, three hundred units, $26,110,000.

Naval Public Works Center, San Diego, California, three hundred and fifty-six units, $31,830,000.

Navy Public Works Center, San Francisco, California, three hundred units, $35,736,000.

Naval Submarine Base, Kings Bay, Georgia, two hundred and fifty units, $19,860,000.

Naval Air Station, Glenview, Illinois, two hundred and sixty units, $23,000,000.

Naval Station, New York, New York, one hundred and fifty units, $14,900,000.

Naval District Washington, District of Columbia, two units at 2,100 square feet each, $330,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2205(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $2,315,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(6)(A), improve existing military family housing units in an amount not to exceed $61,589,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Navy Public Works Center, San Diego, California, six units, $284,400.

Navy Public Works Center, Pensacola, Florida, one unit, $34,900.

Navy Public Works Center, Great Lakes, Illinois, three hundred and fifty-six units, $17,214,000.

Navy Public Works Center, Great Lakes, Illinois, one hundred and two units, $6,181,200.

Naval Security Group Activity, Winter Harbor, Maine, thirty units, $2,920,600.

Naval Security Group Activity, Winter Harbor, Maine, twenty units, $920,000.

Naval Air Station, Fallon, Nevada, one hundred and six units, $8,129,300.

Marine Corps Air Station, Cherry Point, North Carolina, two units, $94,300.

Marine Corps Air Station, Cherry Point, North Carolina, two hundred and eighty-two units, $11,957,200.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, seventy-five units, $5,415,500.

Naval Air Station, Whidbey Island, Washington, eleven units,
102 STAT. 2099 $632,600.

Navy Public Works Center, Guam, two hundred and twelve units, $18,473,800.

SEC. 2204. DEFENSE ACCESS ROADS

The Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under

section 210 of title 23, United States Code, at the following locations and in the following amounts:

Marine Corps Air Ground Center, Twentynine Palms, California, $2,900,000.

Navy Public Works Center, San Diego, California, $719,000.

Navy Public Works Center, San Francisco, California, $800,000.

Naval Station, Everett, Washington, $4,400,000.

Naval Submarine Base, Kings Bay, Georgia, $3,000,000.

SEC. 2205. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,369,875,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,296,450,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $101,272,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,300,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $138,276,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $11,819,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $250,770,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $554,988,000 of which not more than $18,434,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $23,982,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $55,048,000 (the balance of the amount authorized for the construction of the Headquarters Building, Naval Intelligence Command Headquarters, Suitland, Maryland).

102 STAT. 2100

(c) RESTRICTION ON CERTAIN FUNDING.—None of the funds appropriated pursuant to subsection (a)(1) may be obligated for use or expended at Hunters Point Annex, Naval Station, Treasure Island, San Francisco, California, until the Secretary of the Navy has transmitted to the Committees on Armed Services of the Senate and the House of Representatives a report containing (1) a description of the activities planned by the Department of the Navy at such location during fiscal years 1989 through 1993, and (2) a statement explaining the environmental impact of such activities, especially with respect to the planned porting of ships and the development of the land at such location during such fiscal years.

SEC. 2206. ACQUISITION OF HOUSING AT CERTAIN NAVAL AIR STATIONS

(a) AUTHORITY TO ACQUIRE.—(1) The Secretary of the Navy may, using funds appropriated pursuant to section 2205(a)(6)(A), acquire all right, title, and interest in and to 264 family housing units

situated on the Naval Air Station at Glenview, Illinois, and constructed in 1956 with financing provided under title VIII of the National Housing Act.

(2) The Secretary of the Navy may, using funds that remain available from savings realized in carrying out military family housing projects of the Department of the Navy during any fiscal year before fiscal year 1990, acquire all right, title, and interest in and to 72 family housing units at Sunnyvale, California, near the Naval Air Station, Moffett Field, which were constructed in 1952 with financing provided under title VIII of the National Housing Act, except that no such funds may be obligated for such purpose until the expiration of 30 days after the date on which the Secretary transmits to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the proposed obligation of such funds.

Reports

(3) The Secretary may also acquire the leasehold interests in the housing units referred to in paragraphs (1) and (2) which are held in private ownership.

(4) The amount paid by the Secretary for such units and leasehold interests may not exceed an amount equal to the fair market value of such units and interests.

(5) The authority to acquire the housing units referred to in paragraphs (1) and (2) shall include the authority to acquire other real property improvements related to such units.

(b) OCCUPANCY CHARGES.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), a charge may be made against the basic allowances for quarters of any member of the Armed Forces to whom a housing unit referred to in subsection (a) is leased after the acquisition of the privately held leasehold interest in such unit by the Secretary. Such a charge may not exceed an amount equal to 75 percent of the amount of the basic allowances for quarters to which the member is entitled.

(2) A member of the Armed Forces who, on the date on which the privately held leasehold interest referred to in subsection (a) is acquired by the Secretary, has in effect an unexpired lease on one of the housing units described in subsection (a) shall be charged rent on such unit (after such acquisition) in accordance with the terms of the lease until the lease expires.

(c) EXPIRATION OF ACQUISITION AUTHORITY.—The authority under this section for the Secretary to acquire the leasehold interests referred to in subsection (a) shall expire on October 1, 1994.

102 STAT. 2101

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALABAMA

Gunter Air Force Base, $8,150,000.
Maxwell Air Force Base, $17,800,000.

ALASKA

Eielson Air Force Base, $7,650,000.
Elmendorf Air Force Base, $20,540,000.
King Salmon Airport, $2,850,000.
Shemya Air Force Base, $14,860,000.

ARIZONA

Davis-Monthan Air Force Base, $980,000.
Luke Air Force Base, $4,550,000.
Williams Air Force Base, $11,130,000.

ARKANSAS

Blytheville Air Force Base, $2,150,000.
Little Rock Air Force Base, $4,550,000.

CALIFORNIA

Beale Air Force Base, $8,900,000.
Castle Air Force Base, $20,400,000.
Edwards Air Force Base, $5,200,000.
George Air Force Base, $23,550,000.
March Air Force Base, $4,900,000.
Mather Air Force Base, $2,740,000.
McClellan Air Force Base, $3,080,000.
Onizuka Air Force Base, $4,300,000.
Travis Air Force Base, $10,400,000.
Vandenberg Air Force Base, $8,550,000.

COLORADO

Buckley Air National Guard Base, $25,800,000.
Cheyenne Mountain Complex, $6,500,000.
Lowry Air Force Base, $12,000,000.
Peterson Air Force Base, $13,300,000.
United States Air Force Academy, $10,240,000.

DELAWARE

Dover Air Force Base, $1,000,000.

FLORIDA

Avon Park, $3,700,000. 102 STAT. 2102
Cape Canaveral Air Force Station, $19,380,000.
Eglin Air Force Base, $11,020,000.
Eglin Air Force Base, Auxiliary Field 9, $27,400,000.
Homestead Air Force Base, $6,200,000.
MacDill Air Force Base, $4,580,000.
Patrick Air Force Base, $1,126,000.
Tyndall Air Force Base, $6,000,000.

GEORGIA

Moody Air Force Base, $800,000.
Robins Air Force Base, $31,500,000.

HAWAII

Hickam Air Force Base, $4,250,000.

IDAHO

Mountain Home Air Force Base, $1,400,000.

ILLINOIS

Chanute Air Force Base, $6,500,000.
Scott Air Force Base, $14,500,000.

INDIANA

Grissom Air Force Base, $1,850,000.

KANSAS

McConnell Air Force Base, $680,000.

LOUISIANA

Barksdale Air Force Base, $7,300,000.
England Air Force Base, $3,100,000.

MAINE

Loring Air Force Base, $3,000,000.

MARYLAND

Andrews Air Force Base, $2,550,000.

MASSACHUSETTS

Hanscom Air Force Base, $12,400,000.

MICHIGAN

Wurtsmith Air Force Base, $10,690,000.

MISSISSIPPI

Columbus Air Force Base, $2,950,000.
Keesler Air Force Base, $4,550,000.

MISSOURI

Whiteman Air Force Base, $64,300,000.

MONTANA

Malmstrom Air Force Base, $19,470,000.

NEBRASKA

Offutt Air Force Base, $2,450,000.

NEVADA

Indian Springs, $3,150,000.
Nellis Air Force Base, $6,700,000.

NEW HAMPSHIRE

New Boston Air Force Station, $4,500,000.
Pease Air Force Base, $10,950,000.

NEW JERSEY

McGuire Air Force Base, $3,550,000.

NEW MEXICO

Cannon Air Force Base, $4,100,000.
Holloman Air Force Base, $2,900,000.
Kirtland Air Force Base, $13,000,000.

NEW YORK

Griffiss Air Force Base, $700,000.

NORTH CAROLINA

Seymour Johnson Air Force Base, $3,050,000.

NORTH DAKOTA

Grand Forks Air Force Base, $13,290,000.
Minot Air Force Base, $6,250,000.

OHIO

Wright-Patterson Air Force Base, $11,455,000.

OKLAHOMA

Altus Air Force Base, $2,300,000.
Tinker Air Force Base, $12,650,000.

SOUTH CAROLINA

Charleston Air Force Base, $5,000,000.

SOUTH DAKOTA

Ellsworth Air Force Base, $8,650,000.

TENNESSEE

Arnold Engineering Development Center, $213,800,000.

TEXAS

Bergstrom Air Force Base, $2,800,000.
Brooks Air Force Base, $2,750,000.
Carswell Air Force Base, $3,500,000.
Dyess Air Force Base, $3,470,000.
Goodfellow Air Force Base, $2,350,000.
Kelly Air Force Base, $29,300,000.
Lackland Air Force Base, $14,039,000.
Laughlin Air Force Base, $1,910,000.
Randolph Air Force Base, $6,150,000.
Reese Air Force Base, $990,000.
Sheppard Air Force Base, $10,700,000.

UTAH

Hill Air Force Base, $10,740,000.

WASHINGTON

Fairchild Air Force Base, $17,580,000.
McChord Air Force Base, $13,100,000.

WYOMING

F.E. Warren Air Force Base, $6,000,000.

VARIOUS LOCATIONS

Base 80, $987,000.
Base 81, $2,800,000.
Classified, $4,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

BELGIUM

Kleine Brogel, $1,900,000.

CANADA

Forward Operation Locations, $600,000.

GERMANY

Bitburg Air Base, $1,060,000.
Einsiedlerhof Air Base, $1,500,000.
Hahn Air Base, $16,650,000.

Hessich-Oldendorf Air Station, $740,000.
Norvenich Air Base, $2,300,000.
Pruem Air Station, $620,000.
Ramstein Air Base, $6,000,000.
Rhein-Main Air Base, $5,000,000.
Sembach Air Base, $3,550,000.
102 STAT. 2105 **Spangdahlem Air Base, $10,270,000.**
Wenigerath Air Base, $1,700,000.
Zweibrucken Air Base, $1,300,000.

GREENLAND

Sondrestrom Air Base, $5,950,000.
Thule Air Base, $1,830,000.

GUAM

Anderson Air Force Base, $900,000.

ICELAND

Naval Air Station, Keflavik, $1,100,000.

ITALY

Aviano Air Base, $7,600,000.

JAPAN

Kadena Air Base, $1,850,000.
Misawa Air Base, $4,550,000.
Yokota Air Base, $500,000.

KOREA

Camp Humphreys, $3,350,000.
Kunsan Air Base, $17,330,000.
Osan Air Base, $10,750,000.

NETHERLANDS

Camp New Amsterdam, $10,300,000.
Volkel Air Base, $2,300,000.

OMAN

Masirah Air Base, $2,800,000.
Seeb Air Base, $7,100,000.

PANAMA

Howard Air Force Base, $2,600,000.

PHILIPPINES

Clark Air Base, $28,940,000.

PORTUGAL

Lajes Field, $4,850,000.

TURKEY

Incirlik Air Base, $9,590,000.
Pirinclik Air Station, $1,500,000.

UNITED KINGDOM

RAF Alconbury, $2,650,000.
RAF Bentwaters, $5,430,000.
RAF Feltwell, $500,000.
RAF Lakenheath, $10,170,000.

RAF Mildenhall, $7,150,000.
RAF Upper Heyford, $3,830,000.
RAF Welford, $3,720,000.

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VARIOUS LOCATIONS

Base 30, $3,850,000.
Base 79, $1,900,000.
Base 82, $2,800,000.
Classified Locations, $16,473,000.

SEC. 2302. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(5)(A), construct or acquire two hundred sixty family housing units (including land acquisition) at Clark Air Base, Philippines, in the amount of $19,920,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(5)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $7,000,000.

SEC. 2303. IMPROVEMENT TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(5)(A), improve existing military family housing units in an amount not to exceed $153,765,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Gunter Air Force Station, Alabama, twenty-three units, $1,136,000.
Maxwell Air Force Base, Alabama, fifty units, $2,722,000.
Eielson Air Force Base, Alaska, ninety-six units, $7,943,000.
Elmendorf Air Force Base, Alaska, forty-eight units, $3,818,000.
Davis-Monthan Air Force Base, Arizona, one unit, $60,000.
Luke Air Force Base, Arizona, one hundred and fifty-two units, $5,975,000.
McClellan Air Force Base, California, thirty units, $3,207,000.
Peterson Air Force Base, Colorado, one unit, $74,000; eighty units, $3,527,000.
Bolling Air Force Base, District of Columbia, one hundred and ten units, $4,018,000.
Eglin Air Force Base, Florida, fifty units, $2,138,000.
MacDill Air Force Base, Florida, four units, $279,000.
Robins Air Force Base, Georgia, one hundred and sixty units, $6,861,000.
Scott Air Force Base, Illinois, four units, $184,000.
Grissom Air Force Base, Indiana, one hundred and eighty-six units, $6,788,000.

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Barksdale Air Force Base, Louisiana, two units, $185,000; one hundred and fourteen units, $6,200,000.
England Air Force Base, Louisiana, one hundred and six units, $5,830,000.
Andrews Air Force Base, Maryland, five units, $338,000.
Pease Air Force Base, New Hampshire, one unit, $121,000.
McGuire Air Force Base, New Jersey, one hundred units, $4,921,000.

Kirtland Air Force Base, New Mexico, four units, $240,000; one hundred and fifteen units, $4,894,000.

Plattsburgh Air Force Base, New York, one hundred and seventy-four units, $10,600,000.

Minot Air Force Base, North Dakota, one unit, $65,000.

Shaw Air Force Base, South Carolina, one hundred and thirty units, $4,703,000.

Carswell Air Force Base, Texas, one hundred and eighty-one units, $7,869,000; sixteen units, $600,000.

Dyess Air Force Base, Texas, one unit, $64,000.

Kelly Air Force Base, Texas, one hundred and one units, $3,381,000.

Randolph Air Force Base, Texas, two units, $199,000.

Reese Air Force Base, Texas, one hundred and eighty-eight units, $6,816,000.

Ramstein Air Base, Germany, two hundred and forty units, $16,000,000; eight units, $706,000; nine units, $1,039,000.

Andersen Air Force Base, Guam, one unit, $167,000; one hundred and twenty units, $8,000,000.

Misawa Air Base, Japan, one hundred and eighty units, $8,707,000.

Yokota Air Base, Japan, eighty-one units, $5,629,000.

Osan Air Base, Korea, ten units, $447,000.

Clark Air Base, Philippines, eighty-two units, $4,203,000.

RAF Alconbury, United Kingdom, twenty-five units, $1,119,000.

RAF Greenham Common, United Kingdom, one hundred and nineteen units, $5,588,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,143,981,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $855,877,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $229,353,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $119,800,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $180,685,000; and

102 STAT. 2108

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $741,766,000 of which not more than $16,612,500 may be obligated or expended for leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam; and not more than $74,268,500 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $133,000,000 (the balance of the amount authorized for the construction of the J-6 facility, Arnold Engineering Development Center, Tennessee).

(c) RESTRICTION ON CERTAIN FUNDING.—None of the funds appropriated pursuant to subsection (a)(2) may be obligated for use or expended in Panama until the Secretary of Defense transmits to the Committees on Armed Services of the Senate and the House of Representatives a copy of the plans of the activities to be carried out by the Department of Defense in Panama during the five-year period beginning on the date of the enactment of this Act. Effective date.

SEC. 2305. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

Notwithstanding the provisions of section 2301(a) of the Military Construction Authorization Act, 1987, (division B of Public Law 99-661), authorizations for the following projects authorized in sections 2301 and 2302 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1990, whichever is later: Termination date.

(1) KC-135 CPT Simulator facility, in the amount of $890,000 at Minot Air Force Base, North Dakota.

(2) Add to and alter Avionics Maintenance Shop, in the amount of $1,150,000 at Pease Air Force Base, New Hampshire.

(3) KC-135 CPT Simulator facilities in the amount of $660,000 at Robins Air Force Base, Georgia.

(4) Land acquisition in the amount of $230,000 at the United States Air Force Academy, Colorado Springs, Colorado.

(5) Land acquisition Auxiliary Field in the amount of $3,700,000, at Laughlin Air Force Base, Texas.

(6) KC-135 CPT Simulator facility in the amount of $3,500,000, at Beale Air Force Base, California.

(7) KC-135 CPT Simulator facility in the amount of $3,000,000 at Plattsburgh Air Force Base, New York.

(8) Bitburg, Germany, three hundred and thirty-two units of family housing, $26,414,000.

(9) La Junta, Colorado, forty units of family housing $4,000,000.

(10) GEODSS Site 5, Portugal, Composite Support Facility in the amount of $2,250,000 and Spacetrack Observation Facility in the amount of $12,400,000.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Arlington Service Center, Virginia, $742,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Adak, Alaska, $19,000,000.
Defense Depot, Tracy, California, $590,000.
Defense Fuel Support, Pearl City, Hawaii, $1,900,000.
Defense Reutilization and Marketing Office, Fort Campbell, Kentucky, $1,600,000.
Defense Reutilization and Marketing Office, Offutt Air Force Base, Nebraska, $430,000.
Defense Depot, Mechanicsburg, Pennsylvania, $460,000.
Defense Reutilization and Marketing Office, Carswell Air Force Base, Texas, $350,000.
Defense Depot, Ogden, Utah, $6,000,000
Cheatham Annex, Virginia, $450,000.

DEFENSE MAPPING AGENCY

Hydrographic/Topographic Center, Brookmont, Maryland, $5,209,000.

DEFENSE MEDICAL FACILITIES OFFICE

Marine Corps Base, Camp Pendleton, California, $5,000,000.
March Air Force Base, California, $3,000,000.
Naval Station, North Island, California, $7,200,000.
Naval Station, Treasure Island, California, $11,000,000.
Tyndall Air Force Base, Florida, $800,000.
Fort Benning, Georgia, $700,000.
Robins Air Force Base, Georgia, $3,600,000.
Fort Leonard Wood, Missouri, $1,450,000.
Kirtland Air Force Base, New Mexico, $2,550,000.
Seymour Johnson Air Force Base, North Carolina, $3,700,000.
Fort Sill, Oklahoma, $54,000,000.
Marine Corps Recruit Depot, Parris Island, South Carolina, $4,100,000.
Corpus Christi, Texas, $6,100,000.
Dyess Air Force Base, Texas, $950,000.

NATIONAL DEFENSE UNIVERSITY

Fort McNair, District of Columbia, $28,000,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $2,230,000.
102 STAT. 2110 Classified Locations, $20,000,000.

OFFICE OF THE SECRETARY OF DEFENSE

Fort Belvoir, Virginia, $3,000,000.
Classified Location, $4,200,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Falcon Air Force Station, Colorado, $65,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE COMMUNICATIONS AGENCY

Yokota Air Base, Japan, $785,000.

DEFENSE LOGISTICS AGENCY

Defense Reutilization and Marketing Office, Bitburg, Germany, $800,000.
Defense Reutilization and Marketing Office, Kaiserslautern, Germany, $500,000.

DEFENSE MEDICAL FACILITIES OFFICE

Downs Barracks, Germany, $4,200,000.
Geilenkirchen Air Base, Germany, $450,000.
Hahn Air Base, Germany, $18,500,000.
Patch Barracks, Germany, $4,700,000.
Rhein-Main Air Base, Germany, $14,200,000.
Smith Barracks, Germany, $5,100,000.
Spangdahlem Air Base, Germany, $1,250,000.
Wildflecken, Germany, $4,800,000.
Camp Howze 2nd Infantry Division, Korea, $780,000.
Seoul, Korea, $55,000,000.
Taegu Air Base, Korea, $4,400,000.

Royal Air Force, High Wycombe, United Kingdom, $720,000.
Royal Air Force, Lakenheath, United Kingdom, $41,000,000.
Base 54, $12,800,000.
Classified Locations, $19,500,000.

DEFENSE NUCLEAR AGENCY

Headquarters, Field Command, Johnston Island, $2,644,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Aschaffenburg, Germany, $8,151,000.
Bad Kissingen, Germany, $1,620,000.
Baumholder, Germany, $1,940,000.
Erlangen, Germany, $3,890,000.
Gelnhausen, Germany, $1,482,000.
Giessen, Germany, $7,627,000.
Wildflecken, Germany, $2,752,000.
Keflavik, Iceland, $5,434,000.
Aviano, Italy, $9,450,000.
Pusan, Korea, $1,980,000.
Seoul, Korea, $7,332,000.
Brunssum, the Netherlands, $8,863,000.

102 STAT. 2111

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $9,110,000.

NATIONAL SECURITY AGENCY

Classified Locations, $11,250,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Pacific Missile Range, Kwajalein, $16,000,000.

SEC. 2402. FAMILY HOUSING

The Secretary of Defense may, using amounts appropriated pursuant to section 2407(a)(10)(A), construct or acquire three family housing units (including land acquisition) at classified locations in the total amount not to exceed $400,000.

Classified information.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may, using amounts appropriated pursuant to section 2407(a)(10)(A), improve existing military family housing units in an amount not to exceed $113,000.

SEC. 2404. AFCENT SCHOOL

The Secretary of Defense may, using amounts appropriated pursuant to section 2407(a)(2), contribute funds in the amount of $8,863,000 to the Government of the Netherlands (in its capacity as construction agent) for the United States share of the cost of the International Elementary and High School project in Brunssum, the Netherlands.

SEC. 2405. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), is amended to read as follows:

"(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987, not more than $5,000,000 appropriated for fiscal year 1988, and not more than $9,300,000 appropriated for fiscal year 1989, carry out military construction projects not otherwise authorized by law for conforming storage facilities.".

SEC. 2406. DEFENSE ACCESS ROADS

The Secretary of Defense may, using amounts appropriated pursuant to section 2407(a)(5), make advances to the Secretary of

Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Fort Meade, Maryland, in the amount of $12,000,000.

SEC. 2407. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $711,550,000, as follows:

(1) For military construction projects inside the United States
102 STAT. 2112 authorized by section 2401(a), $236,311,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $262,010,000.

(3) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987, $23,000,000.

(4) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $72,000,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $12,000,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $6,000,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $8,000,000.

(8) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $62,229,000.

(9) For conforming storage facilities constructed under the authority of section 2404 of the Military Construction Authorization Act, 1987, $9,300,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $513,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $20,187,000, of which not more than $17,179,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $27,000,000 (the balance of the amount authorized under section 2401(a) for the construction of a medical facility at Fort Sill, Oklahoma); and

(3) $27,500,000 (the balance of the amount authorized under section 2401(b) for the construction of a medical facility at Seoul, Korea).

(c) RESTRICTION ON CERTAIN FUNDING.—Of the amounts appropriated pursuant to this section or otherwise made available to the Department of Defense for fiscal year 1989, not more than $65,000,000 may be obligated or expended for use in planning and construction of a National Test Facility for the Strategic Defense Initiative at Falcon Air Force Base, Colorado.

SEC. 2408. RESITING OF OVERSEAS CONTINGENCY MEDICAL FACILITY

Section 2141(b) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1201) is amended by striking out "RAF Wethersfield, United Kingdom,

$740,000." under the heading "DEFENSE MEDICAL FACILITIES OFFICE" and inserting in lieu thereof "Boscombe Downs, United Kingdom, $740,000.".

102 STAT. 2113

SEC. 2409. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

Termination date.

Notwithstanding the provisions of section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), authorizations for the following project authorized in section 2401 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

DECCO Computer Center and Administrative Facility in the amount of $7,600,000 at Scott Air Force Base, Illinois.

SEC. 2410. REYNOLDS ARMY COMMUNITY HOSPITAL, FORT SILL, OKLAHOMA, AND SEOUL ARMY COMMUNITY HOSPITAL, SEOUL, KOREA

Contracts.

Subject to section 2401, the Secretary of Defense may enter into one or more contracts, in advance of appropriations therefor, for the construction of the military construction projects authorized by section 2401 at Reynolds Army Community Hospital, Fort Sill, Oklahoma, and the Seoul Army Community Hospital, Seoul, Korea, if each such contract limits the amount of payments that the Federal Government is obligated to make under such contracts to the amount of appropriations available, at the time such contract is entered into, for obligation under such contract.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program, as authorized by section 2501, in the amount of $492,000,000.

TITLE XXVI—GUARD AND RESERVE FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1988, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

102 STAT. 2114

(A) for the Army National Guard of the United States, $203,859,000; and

(B) for the Army Reserve, $84,411,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $54,900,000.

(3) For the Department of the Air Force—
(A) for the Air National Guard of the United States, $154,758,000; and
(B) for the Air Force Reserve, $63,600,000.

SEC. 2602. AIRCRAFT PARKING RAMP/HOLDING PAD AT YEAGER AIRPORT, CHARLESTON, WEST VIRGINIA

There is authorized to be constructed, with funds remaining available as the result of savings on construction projects of the Air National Guard of the United States for which funds were appropriated for fiscal year 1987, an aircraft parking ramp/holding pad for the Air National Guard of the United States at Yeager Airport at Charleston, West Virginia, in the amount of $3,300,000, except that no such funds may be obligated for such purpose until the expiration of 30 days after the date on which the Secretary of the Air Force transmits to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the proposed obligation of such funds.

Reports.

SEC. 2603. CONSTRUCTION OF REPLACEMENT FACILITIES AT O'HARE AIR RESERVE FORCES FACILITY, ILLINOIS

(a) GENERAL RULE.—(1) The Secretary of the Air Force may use funds received from the transaction described in paragraph (3) for the construction of reserve component facilities on land under the jurisdiction of the Department of Defense at O'Hare International Airport, Chicago, Illinois.

(2) The Secretary may provide for the construction of such reserve component facilities with funds received from the transaction referred to in paragraph (1) or may permit the City of Chicago to construct such facilities and, upon completion of the construction, have the ownership of such facilities transferred to the United States.

Real property.
Public buildings and grounds.

(3) The transaction referred to in paragraph (1) is an exchange of lands and facilities owned by the United States and under the jurisdiction of the Department of Defense at O'Hare International Airport, Chicago, Illinois, for interests in lands owned by the City of Chicago, Illinois, at such airport. The market value of the interest in lands and the amount of funds received by the United States in such transaction shall be at least equal to the market value of the lands and facilities conveyed by the United States in such transaction.

(b) ADDITIONAL USE OF FUNDS.—The Secretary may also use the funds from the transaction referred to in subsection (a)(1) to meet expenses, other than construction expenses, incurred by the Secretary in connection with the construction of the facilities referred to in such subsection.

(c) EXCESS FUNDS.—Funds received from the transaction described in subsection (a)(3) and not expended for purposes specified in this section shall be paid into the miscellaneous receipts of the Treasury.

(d) REPORTING REQUIREMENT.—The Secretary shall transmit a report to the Committees on Armed Services of the Senate and the House of Representatives at least 21 days before taking any action under paragraph (1) or (2) of subsection (a) or under subsection (b). Such report shall contain a description of the action which the Secretary plans to take under such paragraph or subsection.

102 STAT. 2115

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interest of the United States with respect to any action carried out under this section.

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS; EFFECTIVE DATE

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI,

XXII, XXIII, XXIV, and XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1990, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1991, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1990, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1991, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2702. EFFECTIVE DATE

10 USC 2391 note.

Except as otherwise specifically provided, this division shall take effect on October 1, 1988, or the date of enactment of this Act, whichever is later.

TITLE XXVIII—GENERAL PROVISIONS

PART A—PROGRAM CHANGES

SEC. 2801. LONG-TERM FACILITIES CONTRACTS

Section 2809(a)(3) of title 10, United States Code, is amended by striking out "20 years" and inserting in lieu thereof "32 years".

SEC. 2802. INCREASE IN FOREIGN HOUSING LEASING AUTHORITY

Section 2828(e)(2) of title 10, United States Code, is amended by striking out "36,000" and inserting in lieu thereof "38,000".

SEC. 2803. REPORTS ON REAL PROPERTY TRANSACTIONS

Subsections (a), (b), and (e) of section 2662 of title 10, United States Code, are amended by striking out "$100,000" each place it appears and inserting in lieu thereof "$200,000".

SEC. 2804. NOTIFICATION REQUIREMENT RELATING TO ACQUISITION OF INTEREST IN LAND

Section 2672 of title 10, United States Code, is amended— 102 STAT. 2116

(1) in subsection (a)(1), by striking out "Subject to subsection (b), the" and inserting in lieu thereof "The";

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

SEC. 2805. PLANNING ASSISTANCE FOR IMPACTED COMMUNITIES

(a) MODIFICATION OF AUTHORITY.—Paragraph (1) of section 2391(b) of title 10, United States Code, is amended to read as follows:

"(1) The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds available under Federal programs administered by agencies other than the Department of Defense in order to assist State and local governments in planning community adjustments and economic diversification required (A) by the proposed or actual establishment, realignment, or closure of a military installation, (B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, (C) by a publicly-announced planned major reduction in Department of Defense spending that would directly and adversely affect a community, or (D) by the encroachment of a civilian community on a military installation, if the Secretary determines that an action described in clause (A), (B), or (C) is likely to have a direct and significantly adverse consequence on the affected community or, in the case of an action described in clause (D), if the Secretary determines that the

Grants. Contracts. State and local governments. Public information.

encroachment of the civilian community is likely to impair the continued operational utility of the military installation.".

(b) CONDITION ON ASSISTANCE.—Section 2391(b) of such title is further amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

Public information. Contracts. Employment and unemployment.

"(4) In the case of a publicly-announced planned major reduction in Department of Defense spending that will directly and adversely affect a community, assistance may be made under paragraph (1) only if the publicly-announced planned major reduction will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a five-year period in the locality of the affected community.".

PART B—MISCELLANEOUS

SEC. 2811. PROHIBITION OF FUNDING FOR CERTAIN MILITARY CONSTRUCTION CONTRACTS ON GUAM

(a) IN GENERAL.—Except as provided in subsection (b), no funds appropriated pursuant to authorizations made by this division may be obligated or expended with respect to any contract for a military construction project on Guam if any work is carried out on such project by any person who is a nonimmigrant alien described in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

Reports.

(b) EXCEPTION.—In any case in which there is no acceptable bid made in response to a solicitation by the Secretary of a military department for bids on a contract for a military construction project on Guam and the Secretary concerned makes a determination that the prohibition contained in subsection (a) is a significant deterrent to obtaining bids on such contract, the Secretary concerned may make another solicitation for bids on such contract and the prohibition contained in subsection (a) shall not apply to such contract after the 21-day period beginning with the date on which the Secretary concerned transmits a report concerning such contract to the Committees on Armed Services of the Senate and the House of Representatives.

102 STAT. 2117

(c) EFFECTIVE DATE.—The provisions of this section shall apply to contracts entered into, amended, or otherwise modified on or after the date of the enactment of this Act.

SEC. 2812. BROOKE ARMY MEDICAL CENTER

(a) INCREASE IN PROJECT AUTHORITY.—(1) Section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4034), is amended by striking out "$241,000,000" in the item relating to Fort Sam Houston, Texas, under the heading relating to Defense Medical Facilities Office and inserting in lieu thereof "$275,000,000".

(2) The limitation on the total cost of projects carried out under section 2401 of such Act is hereby increased by $34,000,000.

(b) CONFORMING AMENDMENT.—Section 2403(a)(2) of such Act is amended by striking out ", but the" and all that follows through "beds".

SEC. 2813. COMMUNITY PLANNING ASSISTANCE

(a) ADDITIONAL AUTHORITY.—In addition to the authority under any other provision of law, the Secretary of Defense may provide community planning assistance under section 2391(b) of title 10, United States Code, in the following amounts:

(1) Not to exceed $350,000 for communities located near newly established light infantry division posts.

(2) Not to exceed $250,000 for communities located near newly established Navy strategic dispersal program homeports.

(3) Not to exceed $150,000 for communities located near Whiteman Air Force Base, Knob Noster, Missouri.

(b) EXPIRATION OF AUTHORITY.—The authority to provide community planning assistance under subsection (a) expires on September 30, 1991.

SEC. 2814. FORT DERUSSY, HAWAII

Recreation.

(a) USE.—The Secretary of the Army shall administer Fort DeRussy, Hawaii, as the primary rest and recreation area for members of the Armed Forces in the Pacific.

(b) PROHIBITION.—Notwithstanding any other provision of law, funds appropriated or otherwise available to the Department of Defense may not be used in any way, directly or indirectly, for the purpose of selling, leasing, renting, excessing, or otherwise disposing of any portion of the land constituting Fort DeRussy, Hawaii (as constituted on the date of the enactment of this Act).

(c) IMPLEMENTATION OF PLAN.—(1) Section 2740(d) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4051), is amended—

(A) by striking out "PAYMENT OF EXCESS INTO TREASURY" in the subsection heading and inserting in lieu thereof "EXCESS AMOUNT"; and

(B) by striking out "shall deposit" and all that follows through the period and inserting in lieu thereof "may use such amount for the implementation of the plan established by the Secretary of the Army on March 1, 1988, for the future use and development of Fort DeRussy, Hawaii, except that such amount may not be used to pay for the construction of nonappropriated-fund projects identified in such plan. The Secretary shall deposit any part of such amount not used for such purpose at the end of the ten-year period beginning on the date of the enactment of the Military Construction Authorization Act, 1989, into the Treasury as miscellaneous receipts.".

102 STAT. 2118

Effective date.

(2) Section 2332(d) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 100 Stat. 1223), is amended—

(A) by striking out "PAYMENT OF EXCESS INTO TREASURY" in the subsection heading and inserting in lieu thereof "EXCESS AMOUNT"; and

(B) by striking out "shall deposit" and all that follows through the period and inserting in lieu thereof "may use such amount for the implementation of the plan established by the Secretary of the Army on March 1, 1988, for the future use and development of Fort DeRussy, Hawaii, except that such amount may not be used to pay for the construction of nonappropriated-fund projects identified in such plan. The Secretary shall deposit any amount not used for such purpose at the end of the ten-year period beginning on the date of the enactment of the Military Construction Authorization Act, 1989, into the Treasury as miscellaneous receipts.".

Effective date.

SEC. 2815. WURTSMITH AIR FORCE BASE, MICHIGAN

Public buildings and grounds.

The library building located on the Wurtsmith Air Force Base, Michigan, is hereby designated as the "General Earl T. O'Loughlin Library". Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "General Earl T. O'Loughlin Library".

SEC. 2816. LOCATION OF HAZARDOUS WASTE STORAGE FACILITY AT PEARL HARBOR NAVAL SHIPYARD

The Secretary of the Navy may not construct a hazardous waste storage facility for the Pearl Harbor Naval Shipyard at a location closer than 600 feet to a public school.

SEC. 2817. SOLICITATION FOR PROPOSALS FOR OFFICE SPACE FOR NAVY

(a) IN GENERAL.—The Administrator of General Services, in coordination with the Secretary of the Navy, shall issue a solicitation for proposals for the acquisition of such office and related space within the National Capital Region as the Secretary determines necessary to meet the needs of the Navy within such region.

(b) REPORT.—The Secretary, after consultation with the Administrator, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report regarding the proposals received in response to the solicitation issued pursuant to subsection (a). Such report shall include a comparative cost analysis of meeting the office and related space needs of the Navy within the National Capital Region by means of lease, lease-purchase, and military construction, respectively. The report shall identify, and include recommendations for meeting, the current and long-term office and related space needs of the Navy within the National Capital Region.

102 STAT. 2119

(c) DEADLINE FOR REPORT.—The report required by subsection (b) shall be submitted not later than 90 days after the date established by the Administrator for receiving responses to the solicitation for proposals issued pursuant to subsection (a).

Public buildings and grounds.

SEC. 2818. THIRD INFANTRY DIVISION MEMORIAL

(a) IN GENERAL.—The Society of the Third Infantry Division may establish, on grounds in Arlington National Cemetery selected pursuant to subsection (b)(1), a memorial in honor and in commemoration of the members of the "Rock of the Marne" of the Third Infantry Division, United States Army, who bravely served their country in World War I, World War II, and the Korean conflict.

(b) ADMINISTRATIVE PROVISIONS.—(1) The Secretary of the Army may select a suitable site on grounds in Arlington National Cemetery upon which may be established the memorial authorized in subsection (a).

(2) The design and plans for such memorial shall be subject to the approval of the Secretary of the Army, the American Battle Monuments Commission, the National Capital Planning Commission, and the Commission of Fine Arts.

(3) The United States shall not be liable for any expense in connection with the construction of the memorial authorized by subsection (a).

(4) The maintenance and care of the memorial authorized under this section shall be the responsibility of the Secretary of the Army.

(c) EXPIRATION OF AUTHORITY.—The authority provided in this section shall expire at the end of the 5-year period beginning on the date of the enactment of this Act unless—

(1) construction of the memorial authorized in subsection (a) is commenced within such period; and

(2) before construction of the memorial begins, the Society of the Third Infantry Division certifies to the Secretary of the Army the amount available for the construction of the memorial and the Secretary determines that such amount is sufficient to complete the memorial.

10 USC 2391 note.

SEC. 2819. COMMISSION ON ALTERNATIVE UTILIZATION OF MILITARY FACILITIES

(a) ESTABLISHMENT OF COMMISSION.—Within 30 days after the date of the enactment of this Act, the President shall establish a Commission on Alternative Utilization of Military Facilities. The Commission shall be composed of representatives from the Department of Defense, the Bureau of Prisons of the Department of Justice, the National Institute on Drug Abuse of the Department of Health and Human Services, and the General Services Administration.

(b) REPORT REQUIREMENTS.—The Commission shall, on a biannual basis—

(1) prepare a report listing active and nonactive military facilities that the Secretary of Defense has identified as subjects for closure, as being underutilized in whole or part, or as being excess to the needs of the Department of Defense;

(2) identify those facilities, or parts of facilities, that could be effectively utilized or renovated to serve as minimum security facilities for nonviolent prisoners;

102 STAT. 2120

(3) identify those facilities, or parts of facilities, that could be effectively utilized or renovated to serve as drug treatment facilities for nonviolent drug abusers; and

Drugs and drug abuse.

(4) transmit a list of such facilities to the President and to the Congress.

(c) DEADLINE FOR REPORTS.—The first report required by subsection (b) shall be submitted to the President and Congress not later than October 1, 1988. Subsequent reports under such subsection shall be submitted not later than September 1 of every second year after submission of the first report through fiscal year 1996.

PART C—REAL PROPERTY TRANSACTIONS

SEC. 2821. LAND EXCHANGE, ALAMEDA COUNTY, CALIFORNIA

(a) IN GENERAL.—(1) Subject to subsections (b) through (d), the Secretary of the Army may convey to the County of Alameda, California, and to the City of Dublin, California, the real properties referred to in paragraph (2) in exchange for conveyance to the United States of approximately 445 acres of real property, together with improvements thereon, of the property described in paragraph (3).

State and local governments.

(2) The properties authorized to be conveyed by the Secretary are as follows:

(A) Approximately 35 acres of real property, together with improvements thereon, at the Reserve Forces Training Center, County of Alameda, California, to the County of Alameda, California.

(B) Approximately 12 acres of real property, together with improvements thereon, at such center to the City of Dublin, California.

(3) The property to be conveyed to the United States is a parcel of land consisting of approximately 445 acres, together with improvements thereon, located in the County of Alameda, California, which is under the jurisdiction of the East Bay Regional Park District, County of Alameda, California, and which was conveyed to such district by the United States by a deed dated February 2, 1973.

(4) The instrument of conveyance conveying the property referred to in paragraph (3) to the United States may, at the option of the East Bay Regional Park District—

(A) include a right of reversion on behalf of such district in the event that the property conveyed to the United States is no longer needed by the Department of the Army (as determined by the Secretary of the Army); and

(B) reserve to such district an easement consisting of not more than 25 acres along the most eastern boundary of the property for use by such district as a part of the Regional Trail System of such district.

(b) ADDITIONAL CONSIDERATION.—If the fair market value of the properties conveyed by the United States pursuant to subsection (a) exceeds the fair market value of the property conveyed to the United States pursuant to such subsection, the County of Alameda, California, the City of Dublin, California, or the East Bay Regional Park District, as appropriate, shall pay the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

102 STAT. 2121

(c) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the real property to be conveyed pursuant to this section (including the easement referred to in subsection (a)(4)) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the County of Alameda or the City of Dublin.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances made pursuant to this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2822. LAND CONVEYANCE, LOMPOC, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (d), the Secretary of the Army may convey, without reimbursement, to the City of Lompoc, California, all right, title, and interest of the United States in and to a tract of real property (including improvements thereon) of approximately 100 acres located adjacent to the real property conveyed to the City pursuant to section 834 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1526).

(b) USE OF PROPERTY.—(1) The conveyance authorized by subsection (a) shall be subject to the condition that the real property conveyed shall be used only for educational purposes or the purposes provided in section 834 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1526), or both.

(2) If the property conveyed pursuant to subsection (a) is not used for the purposes described in paragraph (1), all right, title, and interest in and to such property shall revert to the United States, which shall have the right of immediate entry thereon.

(c) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City.

(d) OTHER TERMS AND CONDITIONS.—The Secretary may require such other terms and conditions with respect to the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

Flood control.

SEC. 2823. LAND EASEMENT, ORANGE COUNTY, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Navy may grant an easement to Orange County, California, for the construction and maintenance of flood control improvements (hereafter in this section referred to as "county improvements") on a tract of land owned by the United States, consisting of approximately 32 acres, located at the northern boundary of the Marine Corps Air Station, El Toro, California, and may grant such temporary rights to Orange County as the Secretary determines necessary for the construction of such improvements.

(b) CONSIDERATION.—(1) In consideration for the conveyance by the Secretary under subsection (a), Orange County shall convey to the United States a parcel of real property consisting of approximately one and one-half acres located adjacent to the Marine Corps Air Station, Tustin, California.

(2) The United States shall also be entitled to such flood control improvements at the Marine Corps Air Station, El Toro, California,

102 STAT. 2122

as the Secretary and Orange County shall agree upon.

(3) The county improvements and additional flood control improvements shall be constructed at no cost to the United States.

(c) PAYMENT OF EXCESS INTO TREASURY.—If the fair market value of the easement described in subsection (a) exceeds the fair market value of the real property conveyed to the United States under subsection (b), Orange County shall pay the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(d) LEGAL DESCRIPTION OF PROPERTY.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by Orange County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2824. LAND EXCHANGE, SAN DIEGO, CALIFORNIA

(a) EXCHANGE AUTHORIZED.—Subject to subsections (b) through (e), the Secretary of the Navy may convey to the San Diego Unified Port District of San Diego, California, such real property under the jurisdiction of the Navy in the City of San Diego, California, as the Secretary determines appropriate in exchange for one or more parcels of land, together with improvements thereon and consisting of approximately 32 acres, located adjacent to the San Diego Naval Station, San Diego, California, and owned by the San Diego Unified Port District.

(b) LIMITATION ON VALUE OF PROPERTY EXCHANGED.—The fair market value of the real property conveyed by the Secretary under subsection (a) may not exceed the fair market value of the real property received by the Secretary under such subsection, as determined by the Secretary.

(c) NOTICE TO COMMITTEES.—The Secretary may not enter into an exchange under this section until the Secretary has notified the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives of the details of the proposed exchange and a period of 21 days has elapsed following the day on which the committees receive the notification.

(d) LEGAL DESCRIPTION OF PROPERTY.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by San Diego Unified Port District.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2825. LAND TRANSFER, WASHINGTON, DISTRICT OF COLUMBIA

(a) IN GENERAL.—The Administrator of General Services shall transfer, without consideration, to the Secretary of the Navy approximately 6 acres of real property (including Building 197 located thereon) located at a site referred to as the Southeast Federal Center near the Washington Navy Yard, Washington, D.C., and bounded on the east by Isaac Hull Avenue, on the north by Tingey Street, on the west by Buildings 116 and 118, and on the south by property owned by the Department of the Navy. 102 STAT. 2123

(b) DESIGN OF BUILDING.—The Secretary of the Navy shall use not more than $9,200,000 of the amount appropriated pursuant to section 2205(a)(4) to initiate the redesign of Building 197 referred to in subsection (a).

SEC. 2826. LAND CONVEYANCE, OKALOOSA COUNTY, FLORIDA

Section 309(c) of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 587), is amended by inserting before the period the following: "and a third parcel containing forty-two acres".

SEC. 2827. TRANSFER OF LAND, SUITLAND FEDERAL CENTER, MARYLAND

The Administrator of General Services shall transfer, without consideration, to the Secretary of the Navy such parcel of vacant land located at the Suitland Federal Center, Suitland, Maryland,

as the Administrator, after consultation with the Secretary, determines—

(1) to be excess to the present and anticipated future needs of the General Services Administration at the Suitland Federal Center; and

(2) adequate to accommodate the needs of the Navy for the construction and operation of a facility to serve as the Naval Intelligence Command Headquarters authorized by section 2201.

SEC. 2828. AIR FORCE PLANT AT COLUMBUS, OHIO

(a) IN GENERAL.—The Secretary of the Air Force may sell or lease, or issue a permit to another agency within the Department of Defense for use of, all or any portion of Air Force Plant No. 85 located in Columbus, Ohio. Any such action shall be carried out in accordance with applicable law except to the extent that such law is inconsistent with this section.

Contracts. Public health and safety. Environmental protection.

(b) AUTHORITY OF SECRETARY.—(1) The Secretary shall provide that each deed entered into for the transfer of such property shall contain a covenant warranting that all remedial action necessary to protect human health and the environment with respect to any environmental contamination at the plant at the time of the sale, including any remedial action found to be necessary with respect to such contamination after the date of such transfer, has been or will be conducted by the United States. Such covenant shall be in lieu of any other covenant or other action required by any applicable law with respect to environmental restoration to be taken by the Federal Government at the plant before such transfer.

(2) In any case in which the Secretary provides a permit to another agency within the Department of Defense to use any portion of the plant, the Secretary may provide for the environmental restoration of such portion by such other agency with funds available to the Department of the Air Force for environmental restoration.

(3) To the extent that the Secretary decides to take remedial action with respect to environmental contamination in any portion of the plant before the sale or lease of such portion, the Secretary may use funds provided by the purchaser or lessor for such purpose.

(c) DEDUCTION OF EXPENSE FROM PROCEEDS OF SALE OR LEASE.—
102 STAT. 2124 The Secretary may use the proceeds of any sale or lease of the property described in subsection (a) to credit the accounts from which funds were expended by the Secretary for reasonable and necessary expenses, other than for environmental restoration, incurred in connection with the sale or lease. The Secretary may also use the proceeds of such sale or lease directly for the purpose of environmental restoration at the plant. The remaining proceeds of the sale or lease shall be credited to the general fund of the Treasury.

(d) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with any sale or lease entered into under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2829. LAND CONVEYANCE, FORT JACKSON, SOUTH CAROLINA

(a) AUTHORITY TO SELL.—Subject to subsections (b) through (e), the Secretary of the Army may sell and convey all right, title, and interest of the United States in and to a parcel of land, consisting of a total of approximately 32 acres, that comprises a portion of Fort Jackson, South Carolina, and is excess to the needs of the Army.

(b) COMPETITIVE BID REQUIREMENT; MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale of land referred to in subsection (a).

(2) In no event may any of the land referred to in subsection (a) be sold for less than the fair market value of the land, as determined by the Secretary.

(c) USE OF PROCEEDS OF SALE.—(1) The Secretary may use the proceeds from the sale of the land referred to in subsection (a) for the rehabilitation of military family housing at Fort Jackson, South Carolina.

(2) Any proceeds of the sale not used for such purpose shall be covered into the Treasury as miscellaneous receipts.

(d) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

Approved September 29, 1988.

LEGISLATIVE HISTORY—H.R. 4481 (H.R. 4264):

HOUSE REPORTS: No. 100-735, Pt. 1 (Comm. on Armed Services), Pt. 2 (Comm. on Government Operations), Pt. 3 (Comm. on Merchant Marine and Fisheries), Pt. 4 (Comm. on Rules); No. 100-989 (Comm. of Conference); and No. 100-563 (Comm. on Armed Services) and No. 100-753 (Comm. of Conference), both accompanying H.R. 4264.

CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 26-29, May 2-5, 11, H.R. 4264 considered and passed House.
May 27, considered and passed Senate, amended, in lieu of S. 2355.
July 7, 12, H.R. 4481 considered and passed House.
July 14, House and Senate agreed to conference report to H.R. 4264.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Aug. 3, Presidential veto message of H.R. 4264.

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 15, H.R. 4481 considered and passed Senate, amended.
Sept. 28, House and Senate agreed to conference report to H.R. 4481.

Public Law 100-526
100th Congress

102 STAT. 2623

An Act

To provide certain additional fiscal year 1989 defense authorization policies, to provide procedures to facilitate the closure and realignment of obsolete or unnecessary military installations, and for other purposes.

Oct. 24, 1988
[S. 2749]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Defense Authorization Amendments and Base Closure and Realignment Act.
10 USC 2687 note.

SECTION 1. SHORT TITLE

This Act may be cited as the "Defense Authorization Amendments and Base Closure and Realignment Act".

TITLE I—ADDITIONAL FISCAL YEAR 1989 AUTHORIZATION PROVISIONS

SEC. 101. ADDITIONAL AUTHORIZATIONS FOR MILITARY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) ARMY.—(1) In addition to projects otherwise authorized by law, the Secretary of the Army may acquire real property and may carry out a military construction project for the construction of a barracks modernization at Fort Bliss, Texas, in an amount not exceed $7,100,000.

(2) In addition to projects otherwise authorized by law, the Secretary of the Army may make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at New Cumberland Army Depot, Pennsylvania, in an amount not to exceed $5,300,000.

(3) In addition to any other authorization of appropriations for the Department of the Army, funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for projects of the Department of the Army described in paragraphs (1) and (2) in the amount of $12,400,000.

(4) The forty units of military family housing authorized to be constructed at Schofield Barracks, Hawaii, by section 2101 of the Military Construction Authorization Act, 1989, may be constructed at Helemano Military Reservation, Hawaii.

(b) AIR FORCE.—(1) In addition to projects otherwise authorized by law, the Secretary of the Air Force may acquire real property and may carry out military construction projects at Blytheville Air Force Base, Arkansas, in an amount not to exceed $4,086,000.

(2) In addition to any other authorization of appropriations for the Department of the Air Force, funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction and land acquisition projects of the Department of the Air Force authorized by paragraph (1) in the amount of $4,086,000.

102 STAT. 2624

SEC. 102. ADDITIONAL AUTHORIZATIONS FOR GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) AUTHORIZATIONS OF APPROPRIATIONS.—In addition to funds otherwise authorized by law, there are authorized to be appropriated for fiscal years beginning after September 30, 1988, for cost of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army, $17,506,000 for the Army National Guard of the United States.

(2) For the Department of the Air Force, $2,300,000 for the Air National Guard of the United States.

(b) AUTHORIZATION OF USE OF FUNDS FOR CERTAIN PROJECTS.—Construction and acquisition projects for the Air National Guard of the United States at the following locations and in the following amounts are authorized to be carried out using unexpended funds from amounts appropriated for fiscal years beginning before October 1, 1988:

(1) Anchorage Kulis Air National Guard Base, Alaska, $3,500,000.

(2) Allen C. Thompson Field, Mississippi, $2,000,000.

SEC. 103. ARMY AIR DEFENSE SYSTEM

(a) LIMITATION.—The Secretary of the Army may obligate fiscal year 1989 missile procurement funds that are available for advance procurement for the Air Defense Anti-Tank (ADATS) System only to support continued low-rate production of such system.

(b) FUNDS COVERED.—For purposes of subsection (a), fiscal year 1989 missile procurement funds are funds appropriated to or for the use of the Army for fiscal year 1989 for procurement of missiles and funds otherwise made available to the Army for fiscal year 1989 for that purpose.

SEC. 104. MULTIYEAR PROCUREMENT AUTHORITY

Contracts.
President of U.S.
10 USC 2306 note.

(a) REQUESTS FOR RELIEF.—If for any fiscal year a multiyear contact to be entered into under section 2306(h) of title 10, United States Code, is authorized by law for a particular procurement program and that authorization is subject to certain conditions established by law (including a condition as to cost savings to be achieved under the multiyear contract in comparison to specified other contracts) and if it appears (after negotiations with contractors) that such savings cannot be achieved, but that substantial

savings could nevertheless be achieved through the use of a multiyear contract rather than specified other contracts, the President may submit to Congress a request for relief from the specified cost savings that must be achieved through multiyear contracting for that program. Any such request by the President shall include details about the request for a multiyear contract, including details about the negotiated contract terms and conditions.

(b) TOW II MISSILE PROGRAM.—Section 8031 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463), is amended by striking out the last proviso.

SEC. 105. FIXED-PRICE DEVELOPMENT CONTRACTS

Section 8085 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463), relating to fixed-price development type contracts, is amended by—

(1) striking out "fixed price-type contracts" and inserting in lieu thereof "firm fixed-price contracts"; and

striking out ": *Provided further,*" and all that follows through the end of the section and inserting in lieu thereof a period.

SEC. 106. TECHNICAL AMENDMENTS

(a) CONFORMANCE OF AUTHORIZATION AND APPROPRIATION PROVISIONS.—(1) Section 826(c) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456), is amended— 10 USC 2324 note.

(A) in subsection (c), by inserting "and the Committees on Appropriations" after "Committees on Armed Services"; and

(B) in subsection (d), by striking out "three years after the date of the enactment of this Act" and inserting in lieu thereof "on September 30, 1991".

(2) Section 8105 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463), and the amendment made by that section, shall cease to be effective. 10 USC 2324 and note.

(b) DEFINITIONS.—(1) Section 1095a(c) of title 10, United States Code, is amended—

(A) in paragraph (1), by striking out "(1) 'Captive" and inserting in lieu thereof "(1) The terms 'captive"; and

(B) in paragraph (2), by striking out "(2) 'Dependent" and inserting in lieu thereof "(2) The term 'dependent".

(2) Section 2683(c) of such title is amended—

(A) in paragraph (2)(B), by inserting "the term" after "In subparagraph (A),"; and

(B) in paragraph (4)—

(i) by inserting "The term" after "(A)"; and

(ii) by striking out "(B) 'Minimum" and inserting in lieu thereof "(B) The term 'minimum".

(c) CORRECTION OF REFERENCE TO SCHOOL OF THE AMERICAS.—Section 4415 of title 10, United States Code, is amended by striking out "School for the Americas" in subsections (b) and (c) and inserting in lieu thereof "School of the Americas".

SEC. 107. TERM OF OFFICE OF VICE CHAIRMAN OF JOINT CHIEFS OF STAFF 10 USC 154 note.

Notwithstanding the term of office stated in the first sentence of section 154(a)(3) of title 10, United States Code, the President may extend until June 1, 1989, the term of office of the officer serving as Vice Chairman of the Joint Chiefs of Staff for the term which began on February 6, 1987.

SEC. 108. REPORT ON CLOSE AIR SUPPORT ALTERNATIVES

(a) ASSESSMENT.—(1) The Secretary of Defense shall conduct an independent assessment of Army and Air Force studies and analyses of close air support aircraft alternatives for meeting the military requirements of the United States (A) for the interim period between the date of the completion of the assessment and the year 2000, and (B) for the period after such year.

(2) In conducting such assessment, the Secretary shall consider both the development of new aircraft and the modification of exist-

102 STAT. 2626

ing aircraft, including the A-7 Plus Strikefighter, the F/A-16, the AV-8B, and the A-10 aircraft in current or modified configuration.

(3) In conducting such assessment, the Secretary shall also address the following issues:

(A) Cost.
(B) Development and production schedules.
(C) Technical risks.
(D) Manpower requirements.
(E) Force structure.
(F) Five-year funding profiles.
(G) Cost effectiveness.
(H) Military effectiveness.

(b) OPERATIONAL TEST PLAN.—The Director of Defense Operational Test and Evaluation shall develop an operational test plan for a competitive fly-off of alternative aircraft for the close air support mission. The Director shall complete the development of such plan no later than March 31, 1989. In developing such plan, the Director shall consult with the Air Force Test and Evaluation Center, the Army Operational Testing and Evaluation Activity, and the Marine Corps Operational Test and Evaluation Activity.

(c) TRANSFER FEASIBILITY.—The Secretary of Defense shall assess the feasibility of transferring, no later than fiscal year 1992, the close air support mission from the Air Force to the Army. In conducting such assessment, the Secretary shall consider the cost, schedules, five-year funding profiles, manpower requirements, and force structure implications of such a transfer.

(d) REPORTS.—Not later than March 31, 1989, the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives an interim report on the matters referred to in subsections (a) through (c). The Secretary shall submit a final report on such matters to those Committees not later than December 31, 1989. Such reports shall be submitted in both classified and unclassified form.

Classified information. Public information.

SEC. 109. EXTENSION OF DATE FOR REPORT ON POTENTIAL START TREATY

Section 908 of the National Defense Authorization Act, Fiscal Year 1989, is amended—

102 Stat. 2035.

(1) in subsection (b), by striking out "September 15, 1988" and inserting in lieu thereof "March 15, 1989"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

President of U.S.

"(c) INTERIM REPORT.—The President shall submit an interim report to Congress containing the information described in subsection (b) not later than December 15, 1988.

President of U.S. Classified information. Public information

"(d) FORM OF REPORT.—The President shall submit the reports under subsections (b) and (c) in both classified and unclassified form.".

SEC. 110. TRANSFER OF CERTAIN OBSOLETE SUBMARINES

Maryland. New York.

Clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to transfers, under section 7308(a) of such title, of obsolete vessels by the Secretary of the Navy as follows:

(1) Transfer of the obsolete submarine United States ship Blenny to the town of Ocean City, Maryland.

102 STAT. 2627

(2) Transfer of the obsolete submarine ex-Croaker (ex-SS-246) to the Buffalo and Erie County Naval and Servicemen's Park, a nonprofit corporation organized under the laws of the State of New York.

TITLE II—CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

10 USC 2687 note.

SEC. 201. CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

The Secretary shall—

(1) close all military installations recommended for closure by the Commission on Base Realignment and Closure in the report transmitted to the Secretary pursuant to the charter establishing such Commission;

(2) realign all military installations recommended for realignment by such Commission in such report; and

(3) initiate all such closures and realignments no later than September 30, 1991, and complete all such closures and realignments no later than September 30, 1995, except that no such closure or realignment may be initiated before January 1, 1990.

SEC. 202. CONDITIONS

(a) IN GENERAL.—The Secretary may not carry out any closure or realignment of a military installation under this title unless—

(1) no later than January 16, 1989, the Secretary transmits to the Committees on Armed Services of the Senate and the House of Representatives a report containing a statement that the Secretary has approved, and the Department of Defense will implement, all of the military installation closures and realignments recommended by the Commission in the report referred to in section 201(1); Reports.

(2) the Commission has recommended, in the report referred to in section 201(1), the closure or realignment, as the case may be, of the installation, and has transmitted to the Committees on Armed Services of the Senate and the House of Representatives a copy of such report and the statement required by section 203(b)(2); and

(3) the Secretary of Defense has transmitted to the Commission the study required by section 206(b).

(b) JOINT RESOLUTION.—The Secretary may not carry out any closure or realignment under this title if, within the 45-day period beginning on March 1, 1989, a joint resolution is enacted, in accordance with the provisions of section 208, disapproving the recommendations of the Commission. The days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of such 45-day period.

(c) TERMINATION OF AUTHORITY.—The authority of the Secretary to carry out any closure or realignment under this title shall terminate on October 1, 1995.

SEC. 203. THE COMMISSION

(a) MEMBERSHIP.—The Commission shall consist of 12 members appointed by the Secretary of Defense.

(b) DUTIES.—The Commission shall—

102 STAT. 2628

(1) transmit the report referred to in section 201(1) to the Secretary no later than December 31, 1988, and shall include in such report a description of the Commission's recommendations of the military installations to which functions will be transferred as a result of the closures and realignments recommended by the Commission; and Reports.

(2) on the same date on which the Commission transmits such report to the Secretary, transmit to Committees on Armed Services of the Senate and the House of Representatives— Reports.

(A) a copy of such report; and

(B) a statement certifying that the Commission has identified the military installations to be closed or re-

aligned by reviewing all military installations inside the United States, including all military installations under construction and all those planned for construction.

(c) STAFF.—Not more than one-half of the professional staff of the Commission shall be individuals who have been employed by the Department of Defense during calendar year 1988 in any capacity other than as an employee of the Commission.

SEC. 204. IMPLEMENTATION

(a) IN GENERAL.—In closing or realigning a military installation under this title, the Secretary—

(1) subject to the availability of funds authorized for and appropriated to the Department of Defense for use in planning and design, minor construction, or operation and maintenance and the availability of funds in the Account, may carry out actions necessary to implement such closure or realignment, including the acquisition of such land, the construction of such replacement facilities, the performance of such activities, and the conduct of such advance planning and design as may be required to transfer functions from such military installation to another military installation;

Community development.

(2) subject to the availability of funds authorized for and appropriated to the Department of Defense for economic adjustment assistance or community planning assistance and the availability of funds in the Account, shall provide—

(A) economic adjustment assistance to any community located near a military installation being closed or realigned; and

(B) community planning assistance to any community located near a military installation to which functions will be transferred as a result of such closure or realignment,

if the Secretary determines that the financial resources available to the community (by grant or otherwise) for such purposes are inadequate; and

Environmental protection. Waste disposal. Hazardous materials.

(3) subject to the availability of funds authorized for and appropriated to the Department of Defense for environmental restoration and the availability of funds in the Account, may carry out activities for the purpose of environmental restoration, including reducing, removing, and recycling hazardous wastes and removing unsafe buildings and debris.

(b) MANAGEMENT AND DISPOSAL OF PROPERTY.—(1) The Administrator of General Services shall delegate to the Secretary, with respect to excess and surplus real property and facilities located at a military installation closed or realigned under this title—

102 STAT. 2629

(A) the authority of the Administrator to utilize excess property under section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483);

(B) the authority of the Administrator to dispose of surplus property under section 203 of that Act (40 U.S.C. 484); and

(C) the authority of the Administrator to grant approvals and make determinations under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)).

(2)(A) Subject to subparagraph (B), the Secretary shall exercise authority delegated to the Secretary pursuant to paragraph (1) in accordance with—

(i) all regulations in effect on the date of the enactment of this title governing utilization of excess property and disposal of surplus property under the Federal Property and Administrative Services Act of 1949; and

(ii) all regulations in effect on the date of the enactment of this title governing the conveyance and disposal of property under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)).

(B) The Secretary, after consulting with the Administrator of General Services, may issue regulations that are necessary to carry out the delegation of authority required by paragraph (1).

(C) The authority required to be delegated by paragraph (1) to the Secretary by the Administrator of General Services shall not include the authority to prescribe general policies and methods for utilizing excess property and disposing of surplus property.

(D) Before any action may be taken with respect to the disposal of any surplus real property or facility located at any military installation to be closed or realigned under this title, the Secretary shall consult with the Governor of the State and the heads of the local governments concerned for the purpose of considering any plan for the use of such property by the local community concerned. State and local governments.

(E) The provisions of this paragraph and paragraph (1) are subject to paragraphs (3) and (4).

(3) Before any action is taken with respect to the disposal or transfer of any real property or facility located at a military installation to be closed or realigned under this title, the Secretary shall notify all departments and other instrumentalities (including nonappropriated fund instrumentalities) within the Department of Defense of the availability of such property or facility, or portion thereof, and may transfer such property, facility, or portion, without reimbursement, to any such department or instrumentality. In carrying out this paragraph, the Secretary shall give a priority, and all transfer, to any such department or other instrumentality that agrees to pay fair market value for the property or facility, or portion thereof. For purposes of this paragraph, fair market value shall be determined on the basis of the use of the property or facility on December 31, 1988. This paragraph shall take precedence over any other provision of this title or other provision of law with respect to the disposal or transfer of real property or facility located at a military installation to be closed or realigned under this title.

(4)(A) Except as provided in subparagraph (B), all proceeds—

(i) from any transfer under paragraph (3); and

(ii) from the transfer or disposal of any other property or facility made as a result of a closure or realignment under this title,

shall be deposited into the Account established by section 207(a)(1). 102 STAT. 2630

(B) In any case in which the General Services Administration is involved in the management or disposal of such property or facility, the Secretary shall reimburse the Administrator of General Services from the proceeds of such disposal, in accordance with section 1535 of title 31, United States Code, for any expenses incurred in such activities.

(c) APPLICABILITY OF OTHER LAW.—(1) The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to—

(A) the actions of the Commission, including selecting the military installations which the Commission recommends for closure or realignment under this title, recommending any military installation to receive functions from an installation to be closed or realigned, and making its report to the Secretary and the committees under section 203(b); and

(B) the actions of the Secretary in establishing the Commission, in determining whether to accept the recommendations of the Commission, in selecting any military installation to receive functions from an installation to be closed or realigned, and in transmitting the report to the Committees referred to in section 202(a)(1).

(2) The provisions of the National Environmental Policy Act of 1969 shall apply to the actions of the Secretary (A) during the process of the closing or realigning of a military installation after such military installation has been selected for closure or realignment but before the installation is closed or realigned and the functions relocated, and (B) during the process of the relocating of

functions from a military installation being closed or realigned to another military installation after the receiving installation has been selected but before the functions are relocated. In applying the provisions of such Act, the Secretary shall not have to consider—

(i) the need for closing or realigning a military installation which has been selected for closure or realignment by the Commission;

(ii) the need for transferring functions to another military installation which has been selected as the receiving installation; or

(iii) alternative military installations to those selected.

Claims.

(3) A civil action for judicial review, with respect to any requirement of the National Environmental Policy Act of 1969 to the extent such Act is applicable under paragraph (2), or with respect to any requirement of the Commission made by this title, of any action or failure to act by the Secretary during the closing, realigning, or relocating referred to in clauses (A) and (B) of paragraph (2), or of any action or failure to act by the Commission under this title, may not be brought later than the 60th day after the date of such action or failure to act.

SEC. 205. WAIVER

The Secretary may carry out this title without regard to—

(1) any provision of law restricting the use of funds for closing or realigning military installations included in any appropriation or authorization Act; and

(2) the procedures set forth in sections 2662 and 2687 of title 10, United States Code.

102 STAT. 2631

SEC. 206. REPORTS

(a) IN GENERAL.—As part of each annual budget request for the Department of Defense, the Secretary shall transmit to the appropriate committees of Congress—

(1) a schedule of the closure and realignment actions to be carried out under this title in the fiscal year for which the request is made and an estimate of the total expenditures required and cost savings to be achieved by each such closure and realignment and of the time period in which these savings are to be achieved in each case, together with the Secretary's assessment of the environmental effects of such actions; and

(2) a description of the military installations, including those under construction and those planned for construction, to which functions are to be transferred as a result of such closures and realignments, together with the Secretary's assessment of the environmental effects of such transfers.

(b) STUDY.—(1) The Secretary shall conduct a study of the military installations of the United States outside the United States to determine if efficiencies can be realized through closure or realignment of the overseas base structure of the United States. Not later than October 15, 1988, the Secretary shall transmit a report of the findings and conclusions of such study to the Commission and to the Committees on Armed Services of the Senate and the House of Representatives. In developing its recommendations to the Secretary under this title, the Commission shall consider the Secretary's study.

(2) Upon request of the Commission, the Secretary shall provide the Commission with such information about overseas bases as may be helpful to the Commission in its deliberations.

(3) The Commission, based on its analysis of military installations in the United States and its review of the Secretary's study of the overseas base structure, may provide the Secretary with such comments and suggestions as it considers appropriate regarding the Secretary's study of the overseas base structure.

SEC. 207. FUNDING

(a) ACCOUNT.—(1) There is hereby established on the books of the Treasury an account to be known as the "Department of Defense Base Closure Account" which shall be administered by the Secretary as a single account.

(2) There shall be deposited into the Account—

(A) funds authorized for and appropriated to the Account with respect to fiscal year 1990 and fiscal years beginning thereafter;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the appropriate committees of Congress; and

(C) proceeds described in section 204(b)(4)(A).

(3)(A) The Secretary may use the funds in the Account only for the purposes described in section 204(a).

(B) When a decision is made to use funds in the Account to carry out a construction project under section 204(a)(1) and the cost of the project will exceed the maximum amount authorized by law for a minor construction project, the Secretary shall notify in writing the appropriate committees of Congress of the nature of, and justification for, the project and the amount of expenditures for such project. Any such construction project may be carried out without regard to section 2802(a) of title 10, United States Code.

102 STAT. 2632

(4) No later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this title, the Secretary shall transmit a report to the appropriate committees of Congress of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of other expenditures made pursuant to section 204(a) during such fiscal year.

Reports.

(5) Unobligated funds which remain in the Account after the termination of the authority of the Secretary to carry out a closure or realignment under this title shall be held in the Account until transferred by law after the appropriate committees of Congress receive the report transmitted under paragraph (6).

(6) No later than 60 days after the termination of the authority of the Secretary to carry out a closure or realignment under this title, the Secretary shall transmit to the appropriate committees of Congress a report containing an accounting of—

Reports.

(A) all the funds deposited into and expended from the Account or otherwise expended under this title; and

(B) any amount remaining in the Account.

SEC. 208. CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT

(a) TERMS OF THE RESOLUTION.—For purposes of section 202(b), the term "joint resolution" means only a joint resolution which is introduced before March 15, 1989, and—

(1) which does not have a preamble;

(2) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Commission on Base Realignment and Closure established by the Secretary of Defense as submitted to the Secretary of Defense on ", the blank space being appropriately filled in; and

(3) the title of which is as follows: "Joint resolution disapproving the recommendations of the Commission on Base Realignment and Closure.".

(b) REFERRAL.—A resolution described in subsection (a), introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in subsection (a) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate.

(c) DISCHARGE.—If the committee to which a resolution described in subsection (a) is referred has not reported such resolution (or an

identical resolution) before March 15, 1989, such committee shall be, as of March 15, 1989, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) CONSIDERATION.—(1) On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under subsection (c)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution (but only on the day after the calendar day on which such Member announces to the House concerned the Member's intention to do so). All points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

102 STAT. 2633

(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(3) Immediately following the conclusion of the debate on a resolution described in subsection (a) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) CONSIDERATION BY OTHER HOUSE.—(1) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (B)(ii).

(B) With respect to a resolution described in subsection (a) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(2) Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it

supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House. 102 STAT. 2634

SEC. 209. DEFINITIONS

In this title:

(1) The term "Account" means the Department of Defense Base Closure Account established by section 207(a)(1).

(2) The term "appropriate committees of Congress" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(3) The terms "Commission on Base Realignment and Closure" and "Commission" mean the Commission established by the Secretary of Defense in the charter signed by the Secretary on May 3, 1988, and as altered thereafter with respect to the membership and voting.

(4) The term "charter establishing such Commission" means the charter referred to in paragraph (3).

(5) The term "initiate" includes any action reducing functions or civilian personnel positions but does not include studies, planning, or similar activities carried out before there is a reduction of such functions or positions.

(6) The term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Secretary of a military department.

(7) The term "realignment" includes any action which both reduces and relocates functions and civilian personnel positions.

(8) The term "Secretary" means the Secretary of Defense.

(9) The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

Approved October 24, 1988.

LEGISLATIVE HISTORY—S. 2749 (H.R. 4264):

HOUSE REPORTS: No. 100-1076 (Comm. of Conference); No. 100-563 (Comm. on Armed Services) and No. 100-753 (Comm. of Conference), both accompanying H.R. 4264.

CONGRESSIONAL RECORD, Vol. 134 (1988):

Apr. 26-29, May 2-5, 11, H.R. 4264 considered and passed House.

May 27, considered and passed Senate, amended, in lieu of S. 2355.

July 14, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Aug. 3, Presidential veto message of H.R. 4264.

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 11, S. 2749 considered and passed Senate.

Oct. 3, considered and passed House, amended.

Oct. 12, Senate and House agreed to conference report to S. 2749.

Public Law 100-297
100th Congress

102 STAT. 130

An Act

To improve elementary and secondary education, and for other purposes.

Apr. 28, 1988
[H.R. 5]

Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988
State and local governments.
20 USC 2701 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—ELEMENTARY AND SECONDARY EDUCATION PROGRAM AUTHORIZED

Sec. 1001. Amendments to the Elementary and Secondary Education Act of 1965

"Sec. 1. Short title.

"TITLE I—BASIC PROGRAMS

"CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

"Sec. 1001. Declaration of policy and statement of purpose.

"PART A—BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"SUBPART 1—ALLOCATIONS

"Sec. 1005. Basic grants.
"Sec. 1006. Grants for local educational agencies in counties with especially high concentrations of children from low-income families.

"SUBPART 2—BASIC PROGRAM REQUIREMENTS

"Sec. 1011. Uses of funds.
"Sec. 1012. Assurances and applications.
"Sec. 1013. Eligible schools.
"Sec. 1014. Eligible children.
"Sec. 1015. Schoolwide projects.
"Sec. 1016. Parental involvement.
"Sec. 1017. Participation of children enrolled in private schools.
"Sec. 1018. Fiscal requirements.
"Sec. 1019. Evaluations.
"Sec. 1020. State educational program improvement plan.
"Sec. 1021. Program improvement.

"PART B—EVEN START PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Sec. 1051. Statement of purpose.
"Sec. 1052. Program authorization.
"Sec. 1053. Allocation.
"Sec. 1054. Uses of funds.
"Sec. 1055. Eligible participants.
"Sec. 1056. Applications.
"Sec. 1057. Award of grants.
"Sec. 1058. Evaluation.
"Sec. 1059. Authorization of appropriations.

"PART C—SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY

"Sec. 1101. Purpose.
"Sec. 1102. Allocation.
"Sec. 1103. Uses of funds.

"Sec. 1104. Applications.
"Sec. 1105. Award of grants.
"Sec. 1106. Fiscal requirements and coordination provisions.
"Sec. 1107. Evaluations.
"Sec. 1108. Authorization of appropriations.

"PART D—PROGRAMS OPERATED BY STATE AGENCIES

"SUBPART 1—PROGRAMS FOR MIGRATORY CHILDREN

"Sec. 1201. Grants—entitlement and amount.
"Sec. 1202. Program requirements.
"Sec. 1203. Coordination of migrant education activities.

"SUBPART 2—PROGRAMS FOR HANDICAPPED CHILDREN

"Sec. 1221. Amount and eligibility.
"Sec. 1222. Program requirements.
"Sec. 1223. Uses of funds.
"Sec. 1224. Service and program applications.
"Sec. 1225. Eligible children.
"Sec. 1226. Federal monitoring requirement.

"SUBPART 3—PROGRAMS FOR NEGLECTED AND DELINQUENT CHILDREN

"Sec. 1241. Amount and entitlement.
"Sec. 1242. Program requirements.
"Sec. 1243. Transition services.
"Sec. 1244. Definitions.

"SUBPART 4—GENERAL PROVISIONS FOR STATE OPERATED PROGRAMS

"Sec. 1291. Reservation of funds for territories.
"Sec. 1292. Dual eligibility for programs.

"PART E—PAYMENTS

"Sec. 1401. Payment methods.
"Sec. 1402. Amount of payments to local educational agencies.
"Sec. 1403. Adjustments where necessitated by appropriations.
"Sec. 1404. Payments for State administration.
"Sec. 1405. Funds for the implementation of school improvement programs.
"Sec. 1406. Limitation on grant to the Commonwealth of Puerto Rico.

"PART F—GENERAL PROVISIONS

"SUBPART 1—FEDERAL ADMINISTRATION

"Sec. 1431. Federal regulations.
"Sec. 1432. Availability of appropriations.
"Sec. 1433. Withholding of payments.
"Sec. 1434. Judicial review.
"Sec. 1435. Evaluation.
"Sec. 1436. Coordination of Federal, State, and local administration.
"Sec. 1437. Authorization of appropriations for evaluation and technical assistance.
"Sec. 1438. Application of General Education Provisions Act.
"Sec. 1439. National Commission on Migrant Education.

"SUBPART 2—STATE ADMINISTRATION

"Sec. 1451. State regulations.
"Sec. 1452. Records and information.
"Sec. 1453. Assignment of personnel.
"Sec. 1454. Prohibition regarding State aid.

"SUBPART 3—RURAL EDUCATIONAL OPPORTUNITIES

"Sec. 1456. Program authorized.
"Sec. 1457. Application priority requirements.
"Sec. 1458. Coordination, dissemination, and report.
"Sec. 1459. Authorization of appropriations. 102 STAT. 132

"SUBPART 4—STUDIES

"Sec. 1461. Report on State and local evaluations.
"Sec. 1462. National study on effect of programs on children.
"Sec. 1463. Authorization of appropriations.

"SUBPART 5—DEFINITIONS

"Sec. 1471. Definitions.

"SUBPART 6—MISCELLANEOUS PROVISIONS

"Sec. 1491. Transition provisions.

"CHAPTER 2—FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL IMPROVEMENT

"Sec. 1501. Findings and statement of purpose.
"Sec. 1502. Authorization of appropriations; duration of assistance.

"PART A—STATE AND LOCAL PROGRAMS

"SUBPART 1—GENERAL PROVISIONS

"Sec. 1511. Allotment to States.
"Sec. 1512. Allocation to local educational agencies.

"SUBPART 2—STATE PROGRAMS

"Sec. 1521. State uses of funds.
"Sec. 1522. State applications.

"SUBPART 3—LOCAL TARGETED ASSISTANCE PROGRAMS

"Sec. 1531. Targeted use of funds.
"Sec. 1532. Authorized activities.
"Sec. 1533. Local application.

"SUBPART 4—EFFECTIVE SCHOOLS PROGRAMS

"Sec. 1541. Establishment.
"Sec. 1542. Effective schools.

"PART B—NATIONAL PROGRAMS AND ACTIVITIES

"Sec. 1561. General authority.
"Sec. 1562. National Diffusion Network activities.
"Sec. 1563. Inexpensive Book Distribution program for reading motivation.
"Sec. 1564. Arts in education program.
"Sec. 1565. Law-related education program.
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"PART C—GENERAL ADMINISTRATIVE PROVISIONS

"Sec. 1571. Maintenance of effort; Federal funds supplementary.
"Sec. 1572. Participation of children enrolled in private schools.
"Sec. 1573. Evaluations and reporting.
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"Sec. 1575. Application of General Education Provisions Act.
"Sec. 1576. Transition provisions.

"TITLE II—CRITICAL SKILLS IMPROVEMENT

"PART A—DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION ACT

"Sec. 2001. Short title.
"Sec. 2002. Statement of purpose.
"Sec. 2003. Program authorized.
"Sec. 2004. Allocation of funds.
"Sec. 2005. In-State apportionment.
"Sec. 2006. Elementary and secondary education programs.
"Sec. 2007. Higher education programs.
"Sec. 2008. State application.
"Sec. 2009. Local application.
"Sec. 2010. Participation of children and teachers from private schools.
"Sec. 2011. Federal administration.
"Sec. 2012. National programs.
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"PART B—FOREIGN LANGUAGES ASSISTANCE

"Sec. 2101. Short title.
"Sec. 2102. Findings.
"Sec. 2103. Program authorized.
"Sec. 2104. Allotments.
"Sec. 2105. Definitions.
"Sec. 2106. Authorization of appropriations.

"PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE AND IN FOREIGN LANGUAGES

"Sec. 2201. Presidential awards.
"Sec. 2202. Administrative provisions.
"Sec. 2203. Authorization of appropriations.

"TITLE III—MAGNET SCHOOLS ASSISTANCE

"Sec. 3001. Authorization of appropriations; reservation.
"Sec. 3002. Eligibility.
"Sec. 3003. Statement of purpose.
"Sec. 3004. Program authorized.
"Sec. 3005. Definition.
"Sec. 3006. Uses of funds.
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TITLE I—ELEMENTARY AND SECONDARY EDUCATION PROGRAMS REAUTHORIZED

SEC. 1001. AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) (other than title X of such Act) is amended to read as follows:

20 USC 2701 note.

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Elementary and Secondary Education Act of 1965'.

"TITLE I—BASIC PROGRAMS

"CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

20 USC 2701.

"SEC. 1001. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

"(a) DECLARATION OF POLICY.—In recognition of—

"(1) the special educational needs of children of low-income families and the impact of concentrations of low-income families on the ability of local educational agencies to provide educational programs which meet such needs, and

"(2) the special educational needs of children of migrant parents, of Indian children, and of handicapped, neglected, and delinquent children,

the Congress declares it to be the policy of the United States to—

"(A) provide financial assistance to State and local educational agencies to meet the special needs of such educationally deprived children at the preschool, elementary, and secondary levels;

"(B) expand the program authorized by this chapter over the next 5 years by increasing funding for this chapter by at least $500,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 1993; and

"(C) provide such assistance in a way which eliminates unnecessary administrative burden and paperwork and overly prescriptive regulations and provides flexibility to State and local educational agencies in making educational decisions.

"(b) STATEMENT OF PURPOSE.—The purpose of assistance under this chapter is to improve the educational opportunities of educationally deprived children by helping such children succeed in the regular program of the local educational agency, attain grade-level proficiency, and improve achievement in basic and more advanced skills. These purposes shall be accomplished through such means as supplemental education programs, schoolwide programs, and the increased involvement of parents in their children's education.

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"PART A—BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Subpart 1—Allocations

20 USC 2711.

"SEC. 1005. BASIC GRANTS.

"(a) AMOUNT OF GRANTS.—

Appropriation authorization.

"(1) GRANTS FOR TERRITORIES.—There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 percent of the amount appropriated for such year for payments to States under this section. The amount appropriated pursuant to this paragraph shall be allotted by the Secretary (A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands,

the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Secretary determines will best carry out the purposes of this chapter.

"(2) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—

"(A) In any case in which the Secretary determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)), be determined by multiplying the number of children counted under subsection (c) by 40 percent of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (i) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, such amount shall be 80 percent of the average per pupil expenditure in the United States, or (ii) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, such amount shall be 120 percent of the average per pupil expenditure in the United States.

"(B) In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under 102 STAT. 142
subparagraph (A) for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with the basic criteria prescribed by the Secretary.

"(C) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

"(i) the percentage determined under the preceding sentence; and

"(ii) 32 percent of the average per pupil expenditure in the United States.

"(3) SPECIAL ALLOCATION PROCEDURES.—

"(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Secretary, which does assume such responsibility, shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the

case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this chapter.

"(C) In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 1006) directly to local educational agencies without regard to the counties or may continue to make such allocations if the agency had the authority to do so under chapter 1 of the Education Consolidation and Improvement Act of 1981. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that such allocations will be made using precisely the same factors for determining a grant as are used under this part and that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination.

"(4) DEFINITION.—For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if it meets the following requirements with respect to the number of children counted under subsection (c):

"(1) In any case (except as provided in paragraph (3)) in which the Secretary determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least 10.

"(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least 10.

"(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Secretary has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies or all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Secretary for the purposes of this subsection.

Disadvantaged persons.

"(c) CHILDREN TO BE COUNTED.—

"(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section is the aggregate of—

"(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A),

"(B) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and

"(C) the number of children aged 5 to 17, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursu-

ant to subpart 3 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

"(2) DETERMINATION OF NUMBER OF CHILDREN.—

"(A) For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census.

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"(B) For purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

"(C) When requested by the Secretary, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each county or school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"(d) PROGRAM FOR INDIAN CHILDREN.—

"(1) From the amount allotted for payments to the Secretary of the Interior under the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this chapter with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 percent of (A) the average per

pupil expenditure in the State in which the agency is located, or (B) 120 percent of such expenditure in the United States, whichever is the greater.

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"(2) The amount allotted for payments to the Secretary of the Interior under the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools for Indian children operated with Federal assistance or operated by the Department of the Interior. Such payment shall be made pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines will best achieve the purposes of this chapter. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of subpart 2 of this part and that the Department of the Interior will comply in all other respects with the requirements of this chapter, and (B) provision for carrying out the applicable provisions of subpart 2 of this part and part F. Such agreement shall consider a tribal organization operating a school under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1987 as a local educational agency, and shall consider the Secretary of the Interior as a State or State educational agency for all purposes defining the authority of States or State educational agencies relative to local educational agencies. If, in the capacity as a State educational agency, the Secretary of the Interior promulgates regulations applicable to such tribal organizations, the Secretary shall comply with section 1451 of this Act and with section 553 of title 5 of the United States Code, relating to administrative procedure, and such regulations must be consistent with subsections (d) and (e) of section 1121, section 1130, and section 1133 of the Education Amendments of 1978.

Contracts.

"(e) STATE MINIMUM.—(1) For any fiscal year for which—

"(A) sums available for the purposes of this section exceed sums available under chapter 1 of the Education Consolidation and Improvement Act of 1981 for fiscal year 1988; and

"(B)(i) sums available for the purpose of section 1006 equal or exceed $400,000,000, or

"(ii) sums available for the purpose of section 1005 equal or exceed amounts appropriated for such purpose in fiscal year 1988 by $700,000,000,

the aggregate amount allotted for all local educational agencies within a State may not be less than one-quarter of 1 percent of the total amount available for such fiscal year under this section.

"(2) The provisions of paragraph (1) shall apply only if each State is allotted an amount which is not less than the payment made to each State under chapter 1 of the Education Consolidation and Improvement Act of 1981 for fiscal year 1988.

"(3)(A) No State shall, by reason of the application of the provisions of paragraph (1) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

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whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted under subsection (c) in the fiscal year specified in subparagraph (A), multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(g) DURATION OF ASSISTANCE.—During the period beginning October 1, 1988, and ending September 30, 1993, the Secretary shall, in accordance with the provisions of this part, make payments to State educational agencies for grants made on the basis of entitlements created under this section.

Effective date. Termination date.

"SEC. 1006. GRANTS FOR LOCAL EDUCATIONAL AGENCIES IN COUNTIES WITH ESPECIALLY HIGH CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES.

Disadvantaged persons. 20 USC 2712.

"(a) ELIGIBILITY FOR AND AMOUNT OF SPECIAL GRANTS.—

"(1)(A) Except as otherwise provided in this paragraph, each county, in a State other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, which is eligible for a grant under this chapter for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if—

"(i) the number of children counted under section 1005(c) of this chapter in the school district of local educational agencies in such county for the preceding fiscal year exceeds 6,500, or

"(ii) the number of children counted under section 1005(c) exceeds 15 percent of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county in that fiscal year.

"(B) Except as provided in subparagraph (C), no State described in subparagraph (A) shall receive less than—

"(i) one-quarter of 1 percent of the sums appropriated under subsection (c) of this section for such fiscal year; or

"(ii) $250,000,

whichever is higher.

"(C) No State shall, by reason of the application of the provisions of subparagraph (B)(i) of this paragraph, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(D) For the purpose of subparagraph (C), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this section in the fiscal year specified in subparagraph (B),

multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(2) For each county in which there are local educational agencies eligible to receive an additional grant under this section for any fiscal year the Secretary shall determine the product of— 102 STAT. 147

"(A) the greater of—

"(i) the number of children in excess of 6,500 counted under section 1005(c) for the preceding fiscal year, in the school districts of local educational agencies of a county which qualifies on the basis of subparagraph (A) of paragraph (1); or

"(ii) the number of children counted under section 1005(c) for the preceding fiscal year in the school districts of local educational agencies in a county which qualifies on the basis of subparagraph (B) of paragraph (1); and

"(B) the quotient resulting from the division of the amount determined for those agencies under section 1005(a)(2) of this chapter for the fiscal year for which the determination is being made divided by the total number of children counted under section 1005(c) for that agency for the preceding fiscal year.

"(3) The amount of the additional grant to which an eligible county is entitled under this section for any fiscal year shall be an amount which bears the same ratio to the amount reserved under subsection (c) for that fiscal year as the product determined under paragraph (2) for such county for that fiscal year bears to the sum of such products for all counties in the United States for that fiscal year.

"(4) For the purposes of this section, the Secretary shall determine the number of children counted under section 1005(c) for any county, and the total number of children aged five to seventeen, inclusive, in school districts of local educational agencies in such county, on the basis of the most recent satisfactory data available at the time the payment for such county is determined under section 1005.

"(5)(A) Pursuant to regulations established by the Secretary and except as provided in subparagraphs (B) and (C) and paragraph (6), funds allocated to counties under this part shall be allocated by the State educational agency only to those local educational agencies whose school districts lie (in whole or in part) within the county and which are determined by the State educational agency to meet the eligibility criteria of clauses (i) and (ii) of paragraph (1)(A). Such determination shall be made on the basis of the available poverty data which such State educational agency determines best reflect the current distribution in the local educational agency of low-income families consistent with the purposes of this chapter. The amount of funds under this part that each qualifying local educational agency receives shall be proportionate to the number or percentage of children from low-income families in the school districts of the local educational agency.

"(B) In counties where no local educational agency meets the criteria of clause (i) or (ii) of paragraph (1)(A), the State educational agency shall allocate such funds among the local educational agencies within such counties (in whole or in part) in rank order of their respective concentration and numbers of children from low-income families and in amounts which are consistent with the degree of concentration of poverty. Only local educational agencies with concentrations of poverty that exceed the county wide average of poverty shall receive any funds pursuant to the provisions of this subparagraph.

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"(C) In States which receive the minimum grant amount under paragraph (1), the State educational agency shall allocate such funds among the local educational agencies in such State by either of the following methods:

"(i) in accordance with the provisions of subparagraphs (A) and (B) of this paragraph; or

"(ii) without regard to the counties in which such local educational agencies are located, in rank order of their respective concentration and numbers of children from low-income families and in amounts which are consistent with the degree of concentration of poverty, except that only those local educational agencies with concentrations of poverty that exceed the Statewide average of poverty shall receive any funds pursuant to the provisions of this clause.

"(6) A State may reserve not more than 2 percent of its allocation under this section for the purpose of making direct payments to local educational agencies that meet the criteria of clauses (i) and (ii) of paragraph (1)(A), but are otherwise ineligible.

"(b) PAYMENTS; USE OF FUNDS.—

"(1) The total amount which counties in a State are entitled to under this section for any fiscal year shall be added to the amount paid to that State under section 1401 for such year. From the amount paid to it under this section, the State shall distribute to local educational agencies in each county of the State the amount (if any) to which it is entitled under this section.

"(2) The amount paid to a local educational agency under this section shall be used by that agency for activities undertaken pursuant to its application submitted under section 1012 and shall be subject to the other requirements in subpart 2 of this part.

"(c) RESERVATION OF FUNDS.—

"(1) For any fiscal year for which amounts appropriated for part A of this chapter exceed $3,900,000,000, the amounts specified in paragraph (2) of this subsection shall be available to carry out this section.

"(2)(A) The first $400,000,000 in excess of $3,900,000,000 appropriated for part A of this chapter in any fiscal year shall be available to carry out this section.

"(B) Whenever the amounts appropriated for part A exceed $4,300,000,000 in any fiscal year, 10 percent of the amount appropriated for that fiscal year shall be available to carry out this section, except that no State shall, as a result of implementation of paragraph (2) of this subsection, receive less under section 1005 than it received for the previous fiscal year under such section or under section 554(a)(1)(A) of the Education Consolidation and Improvement Act of 1981.

"(d) RATABLE REDUCTION RULE.—If the sums available under subsection (c) for any fiscal year for making payments under this section are not sufficient to pay in full the total amounts which all States are entitled to receive under subsection (a) for such fiscal year, the maximum amounts which all States are entitled to receive under subsection (a) for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

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"Subpart 2—Basic Program Requirements

"SEC. 1011. USES OF FUNDS. 20 USC 2721.

"(a) PROGRAM DESCRIPTION.—

"(1) A local educational agency may use funds received under this part only for programs and projects which are designed to meet the special educational needs of educationally deprived children identified in accordance with section 1014 and which are included in an application for assistance approved by the State educational agency.

"(2) Such programs and projects under paragraph (1) may include preschool through secondary programs; the acquisition of equipment and instructional materials; books and school library resources; employment of special instructional personnel, school counselors, and other pupil services personnel; employment and training of education aides; payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas; the training of teachers, librarians, other instructional and pupil services personnel, and, as appropriate, early childhood education professionals (including training in preparation for the implementation of programs and projects in a subsequent school year); the construction, where necessary, of school facilities; parental involvement activities under section 1016; planning for

and evaluation of such programs and projects assisted under this chapter; and other expenditures authorized under this chapter.

"(3) State and local educational agencies are encouraged to develop programs to assist eligible children to improve their achievement in basic skills and more advanced skills and to consider year-round services and activities, including intensive summer school programs.

"(b) INNOVATION PROJECTS.—Subject to the approval of the State educational agency, a local educational agency may use not more than 5 percent of payments under this part for the costs of conducting innovative projects developed by the local educational agency that include only—

"(1) the continuation of services to children eligible for services in any preceding year for a period sufficient to maintain progress made during their eligibility;

"(2) the provision of continued services to eligible children transferred to ineligible areas or schools as part of a desegregation plan for a period not to exceed 2 years;

"(3) incentive payments to schools that have demonstrated significant progress and success in attaining the goals of this chapter;

"(4) training of chapter 1 and nonchapter 1 paid teachers and librarians with respect to the special educational needs of eligible children and integration of activities under this part into regular classroom programs;

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"(5) programs to encourage innovative approaches to parental involvement or rewards to or expansion of exemplary parental involvement programs;

"(6) encouraging the involvement of community and private sector resources (including fiscal resources) in meeting the needs of eligible children; and

"(7) assistance by local educational agencies of schools identified under section 1021(b).

20 USC 2722.

"SEC. 1012. ASSURANCES AND APPLICATIONS.

"(a) STATE EDUCATIONAL AGENCY ASSURANCES.—Any State desiring to participate under this chapter shall submit to the Secretary, through its State educational agency, assurances that the State educational agency—

"(1) will meet the requirements in section 435(b)(2) and (b)(5) of the General Education Provisions Act relating to fiscal control and fund accounting procedures;

"(2) will carry out the activities required under this chapter with regard to evaluation and school program improvement;

"(3) has on file a program improvement plan that meets the requirements of section 1020; and

"(4) will ensure that its local educational agencies and State agencies receiving funds under this chapter comply with all applicable statutory and regulatory provisions pertaining to this chapter.

Such assurances shall remain in effect for the duration of participation under this chapter.

Grants.

"(b) LOCAL APPLICATIONS.—A local educational agency may receive a grant under this chapter for any fiscal year if it has on file with the State educational agency an application which describes the procedure to be used under section 1014(b) to assess students' needs and establish program goals, describes the programs and projects to be conducted with such assistance for a period of not more than 3 years, and describes the desired outcomes for eligible children, in terms of basic and more advanced skills that all children are expected to master, which will be used as the basis for evaluating the program or project as required by section 1019, and such application has been approved by the State educational agency and developed in consultation with teachers and parents.

"(c) LOCAL ASSURANCES.—Such application shall provide assurance that the programs and projects described—

"(1) are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served, are designed and implemented in consultation with teachers (including early childhood education professionals and librarians when appropriate), and provide for parental involvement in accordance with section 1016;

"(2) make provision for services to educationally deprived children attending private elementary and secondary schools in accordance with section 1017;

"(3) allocate time and resources for frequent and regular coordination of the curriculum under this chapter with the regular instructional program; and

"(4) in the case of participating students who are also limited English proficient or are handicapped, provide maximum coordination between services provided under this chapter and services provided to address children's handicapping conditions or limited English proficiency, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the students' programs.

Handicapped persons.

"SEC. 1013. ELIGIBLE SCHOOLS.

Disadvantaged persons.
20 USC 2723.

"(a) GENERAL PROVISIONS.—

"(1) Subject to subsection (b), a local educational agency shall use funds received under this chapter in school attendance areas having high concentrations of children from low-income families (hereinafter referred to as 'eligible school attendance areas'), and where funds under this chapter are insufficient to provide programs and projects for all educationally deprived children in eligible school attendance areas, a local educational agency shall annually rank its eligible school attendance areas from highest to lowest within each grade span grouping or for the entire local educational agency, according to relative degree of concentration of children from low-income families. A local educational agency may carry out a program or project assisted under this chapter in an eligible school attendance area only if it also carries out such program or project in all other eligible school attendance areas which are ranked higher under the first sentence of this paragraph.

"(2) The same measure of low income, which shall be chosen by the local educational agency on the basis of the best available data and which may be a composite of several indicators, shall be used with respect to all school attendance areas within a grade span grouping or for the entire local educational agency, both to identify the areas having high concentrations of children from low-income families and to determine the ranking of each area.

"(3) The requirements of this subsection shall not apply in the case of a local educational agency with a total enrollment of less than 1,000 children, but this paragraph does not relieve such an agency from the responsibility to serve eligible children according to the provisions of section 1014.

"(b) LOCAL EDUCATIONAL AGENCY DISCRETION.—Notwithstanding subsection (a)(1) of this section, a local educational agency shall have discretion to identify and rank eligible attendance areas as follows:

"(1) A local educational agency may designate as eligible and serve all of its attendance areas within a grade span grouping or in the entire local educational agency if the percentage of children from low-income families in each attendance area of the agency is within 5 percentage points of the average percentage of such children within a grade span grouping or for the entire local educational agency.

"(2) A local educational agency may designate any school attendance area in which at least 25 percent of the children are

from low-income families as an eligible school attendance area if the aggregate amount expended under this chapter and under a State program meeting the requirements of section 1018(d)(1)(B) in that fiscal year in each school attendance area of that agency eligible under subsection (a) in which projects assisted under this chapter were carried out in the preceding fiscal year equals or exceeds the amount expended from those sources in that area in such preceding fiscal year if such attendance areas qualify for such amounts under subsection (c)(1).

"(3) A local educational agency may, with the approval of the State educational agency, designate as eligible and serve school attendance areas with substantially higher numbers or percentages of educationally deprived children before school attendance areas with higher concentrations of children from low-income families, but this paragraph shall not permit the provision of services to more school attendance areas than could otherwise be served. A State educational agency shall approve such a proposal only if the State educational agency finds that the proposal will not substantially impair the delivery of deprived children from low-income families in project areas served by the local educational agency.

"(4) Funds received under this part may be used for educationally deprived children who are in a school which is not located in an eligible school attendance area when the proportion of children from low-income families in average daily attendance in such school is substantially equal to the proportion of such children in an eligible school attendance area of such agency.

"(5) If an eligible school attendance area or eligible school was so designated and served in accordance with subsection (a) in the immediately preceding fiscal year, it may continue to be so designated for the subsequent fiscal year even though it does not qualify as eligible under such subsection in such additional year.

"(6) With the approval of the State educational agency, eligible school attendance areas or eligible schools which have higher proportions or numbers of children from low-income families may be skipped if they are receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this part, except that (A) the number of children attending private elementary and secondary schools who receive services under this part shall be determined without regard to non-Federal compensatory education funds which serve eligible children in public elementary and secondary schools, and (B) children attending private elementary and secondary schools who receive assistance under this part shall be identified in accordance with this section and without regard to skipping public school attendance areas or schools under this paragraph.

"(c) ALLOCATIONS.—

"(1) Except as provided in paragraph (2), a local educational agency shall allocate funds under this part among project areas or schools on the basis of the number and needs of children to be served as determined in accordance with section 1014.

"(2) Children in eligible schools, who receive services under this part and subsequently become ineligible due to improved academic achievement attributable to such services, may continue to be considered eligible for 2 additional years only for the purpose of determining the allocation of funds among eligible schools under paragraph (1). Any funds so allocated shall be used to provide services to any children determined to be eligible under section 1014.

"SEC. 1014. ELIGIBLE CHILDREN.

Disadvantaged persons.
20 USC 2724.

"(a) GENERAL PROVISIONS.—

"(1) Except as provided in subsections (c) and (d) of this section and section 1015, a local educational agency shall use funds received under this part for educationally deprived children, identified in accordance with subsection (b) as having the greatest need for special assistance, in school attendance areas or schools satisfying the requirements of section 1013.

"(2) The eligible population for services under this part are—

"(A) those children up to age 21 who are entitled to a free public education through grade 12, and

"(B) those children who are not yet at a grade level where the local educational agency provides a free public education, yet are of an age at which they can benefit from an organized instructional program provided in a school or other educational setting.

"(b) ASSESSMENT OF EDUCATIONAL NEED.—A local educational agency may receive funds under this part only if it makes an assessment of educational needs each year to (1) identify educationally deprived children in all eligible attendance areas; (2) identify the general instructional areas on which the program will focus; (3) select those educationally deprived children who have the greatest need for special assistance, as identified on the basis of educationally related objective criteria established by the local educational agency, which include written or oral testing instruments, that are uniformly applied to particular grade levels throughout the local educational agency; and (4) determine the special educational needs (and library resource needs) of participating children with specificity sufficient to ensure concentration on such needs.

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—(1) Educationally deprived children who begin participation in a program or project assisted under this part, in accordance with subsections (a) and (b) but who, in the same school year, are transferred to a school attendance area or school not receiving funds under this part, may, if the local agency so determines, continue to participate in a program or project funded under this part for the duration of that same school year.

"(2) In providing services under this part a local educational agency may skip educationally deprived children in greatest need of assistance who are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this part.

"(3) A child who, in the previous year, was identified as being in greatest need of assistance, and who continues to be educationally deprived, but who is no longer identified as being in greatest need of assistance, may participate in a program or project assisted under this part while continuing to be educationally deprived for a maximum of 2 additional years.

"(d) SPECIAL RULES.—(1) Children receiving services to overcome a handicapping condition or limited English proficiency shall also be eligible to receive services under this part, if they have needs stemming from educational deprivation and not related solely to the handicapping condition or limited English proficiency. Such children shall be selected on the same basis as other children identified as eligible for and selected to receive services under this part. Funds under this part may not be used to provide services that are otherwise required by law to be made available to such children.

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"(2) A student who at any time in the previous 2 years was receiving services under subpart 3 of part D of this chapter or under subpart 3 of part B of title I of the Elementary and Secondary Education Act (as amended by chapter 1 of the Education Consolidation and Improvement Act of 1981) shall be considered eligible for services under this part, and may be served subject to the provisions of subsections (a) and (b).

Disadvantaged persons.
20 USC 2725.

"SEC. 1015. SCHOOLWIDE PROJECTS.

"(a) USE OF FUNDS FOR SCHOOLWIDE PROJECTS.—In the case of any school serving an attendance area that is eligible to receive services under this part and in which, for the first year of the 3-year period of projects assisted under this section, not less than 75 percent of the children are from low-income families or any eligible school in which not less than 75 percent of the children enrolled in the school are from low-income families, the local educational agency may carry out a project under this part to upgrade the entire educational program in that school if the requirements of subsections (b), (c), (d), and (e) are met.

"(b) DESIGNATION OF SCHOOLS.—A school may be designated for a schoolwide project under subsection (a) if—

"(1) a plan has been developed for that school by the local educational agency and has been approved by the State educational agency which—

"(A) provides for a comprehensive assessment of educational needs of all students in the school, in particular the special needs of educationally deprived children;

"(B) establishes goals to meet the special needs of all students and to ensure that educationally deprived children are served effectively and demonstrate performance gains comparable to other students;

"(C) describes the instructional program, pupil services, and procedures to be used to implement those goals;

"(D) describes the specific uses of funds under this part as part of that program; and

"(E) describes how the school will move to implement an effective schools program as defined in section 1471, if appropriate;

"(2) the plan has been developed with the involvement of those individuals who will be engaged in carrying out the plan, including parents, teachers, librarians, education aides, pupil services personnel, and administrators (and secondary students if the plan relates to a secondary school);

"(3) the plan provides for consultation among individuals described in paragraph (2) as to the educational progress of all students and the participation of such individuals in the development and implementation of the accountability measures required by subsection (e);

"(4) appropriate training is provided to parents of children to be served, teachers, librarians, and other instructional, administrative, and pupil services personnel to enable them effectively to carry out the plan;

"(5) the plan includes procedures for measuring progress, as required by subsection (e), and describes the particular measures to be used; and

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"(6)(A) in the case of a school district in which there are one or more schools described in subsection (a) and there are also one or more other schools serving project areas, the local educational agency makes the Federal funds provided under this part available for children in such schools described in subsection (a) in amounts which, per educationally deprived child served, equal or exceed the amount of such funds made available per educationally deprived child served in such other schools; and

"(B) the average per pupil expenditure in schools described in subsection (a) (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in such schools in the previous fiscal year, except that the cost of services for programs described in section 1018(d)(2)(A) shall be included for each fiscal year as appropriate only in proportion to the number of children in the building served in such programs in the year for which this determination is made.

"(c) APPROVAL OF PLAN; OPERATION OF PROJECT.—

"(1) The State educational agency shall approve the plan of any local educational agency for a schoolwide project if that plan meets the requirements of subsection (b).

"(2) For any school which has such a plan approved, the local educational agency—

"(A) shall, in order to carry out the plan, be relieved of any requirements under this part with respect to the commingling of funds provided under this chapter with funds available for regular programs;

"(B) shall use funds received under this part only to supplement, and to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the school approved for a schoolwide project under paragraph (1);

"(C) shall comply with the provisions of section 1018(c); and

"(D) may not be required to identify particular children as being eligible to participate in projects assisted under this part but shall identify educationally deprived children for purposes of subsections (b) and (e) of this section.

"(d) USE OF FUNDS.—In addition to uses under section 1011, funds may be used in schoolwide projects for—

"(1) planning and implementing effective schools programs, and

"(2) other activities to improve the instructional program and pupil services in the school, such as reducing class size, training staff and parents of children to be served, and implementing extended schoolday programs.

"(e) ACCOUNTABILITY.—

"(1) The State educational agency may grant authority for a local educational agency to operate a schoolwide project for a period of 3 years. If a school meets the accountability requirements in paragraphs (2) and (3) at the end of such period, as determined by the State educational agency, that school will be allowed to continue the schoolwide project for an additional 3-year period.

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"(2)(A) Except as provided in subparagraph (B), after 3 years, a school must be able to demonstrate (i) that the achievement level of educationally deprived children as measured according to the means specified in the plan required by subsection (b) exceeds the average achievement of participating children districtwide, or (ii) that the achievement of educationally deprived children in that school exceeds the average achievement of such children in that school in the 3 fiscal years prior to initiation of the schoolwide project.

"(B) For a secondary school, demonstration of lower dropout rates, increased retention rates, or increased graduation rates is acceptable in lieu of increased achievement, if achievement levels over the 3-year schoolwide project period, compared with the 3-year period immediately preceding the schoolwide project, do not decline.

"(3) Schools shall annually collect achievement and other assessment data for the purposes of paragraph (2). The results of achievement and other assessments shall be made available annually to parents, the public, and the State educational agency.

Public information.

"SEC. 1016. PARENTAL INVOLVEMENT.

20 USC 2726.

"(a) FINDINGS; GENERAL REQUIREMENT.—

"(1) Congress finds that activities by schools to increase parental involvement are a vital part of programs under this chapter.

"(2) Toward that end, a local educational agency may receive funds under this chapter only if it implements programs, activi-

ties, and procedures for the involvement of parents in programs assisted under this chapter. Such activities and procedures shall be planned and implemented with meaningful consultation with parents of participating children and must be of sufficient size, scope, and quality to give reasonable promise of substantial progress toward achieving the goals under subsection (b).

"(3) For purposes of this section, parental involvement includes, but is not limited to, parent input into the design and implementation of programs under this chapter, volunteer or paid participation by parents in school activities, and programs, training, and materials which build parents' capacity to improve their children's learning in the home and in school.

"(b) GOALS OF PARENTAL INVOLVEMENT.—In carrying out the requirements of subsection (a), a local educational agency shall, in coordination with parents of participating children, develop programs, activities, and procedures which have the following goals—

"(1) to inform parents of participating children of the program under this chapter, the reasons for their children's participation in such programs, and the specific instructional objectives and methods of the program;

"(2) to support the efforts of parents, including training parents, to the maximum extent practicable, to work with their children in the home to attain the instructional objectives of programs under this chapter and to understand the program requirements of this chapter and to train parents and teachers to build a partnership between home and school;

"(3) to train teachers and other staff involved in programs under this chapter to work effectively with the parents of participating students;

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"(4) to consult with parents, on an ongoing basis, concerning the manner in which the school and parents can better work together to achieve the program's objectives and to give parents a feeling of partnership in the education of their children;

"(5) to provide a comprehensive range of opportunities for parents to become informed, in a timely way, about how the program will be designed, operated, and evaluated, allowing opportunities for parental participation, so that parents and educators can work together to achieve the program's objectives; and

"(6) to ensure opportunities, to the extent practicable, for the full participation of parents who lack literacy skills or whose native language is not English.

"(c) MECHANISMS FOR PARENTAL INVOLVEMENT.—

"(1) Each local educational agency, after consultation with and review by parents, shall develop written policies to ensure that parents are involved in the planning, design, and implementation of programs and shall provide such reasonable support for parental involvement activities as parents may request. Such policies shall be made available to parents of participating children.

"(2) Each local educational agency shall convene an annual meeting to which all parents of participating children shall be invited, to explain to parents the programs and activities provided with funds under this chapter. Such meetings may be districtwide or at the building level, as long as all such parents are given an opportunity to participate.

Reports.

"(3) Each local educational agency shall provide parents of participating children with reports on the children's progress, and, to the extent practical, hold a parent-teacher conference with the parents of each child served in the program, to discuss that child's progress, placement, and methods by which parents can complement the child's instruction. Educational personnel under this chapter shall be readily accessible to parents and shall permit parents to observe activities under this chapter.

"(4) Each local educational agency shall (A) provide opportunities for regular meetings of parents to formulate parental input into the program, if parents of participating

children so desire; (B) provide parents of participating children with timely information about the program; and (C) make parents aware of parental involvement requirements and other relevant provisions of programs under this chapter.

"(5) Parent programs, activities, and procedures may include regular parent conferences; parent resource centers; parent training programs and reasonable and necessary expenditures associated with the attendance of parents at training sessions; hiring, training, and utilization of parental involvement liaison workers; reporting to parents on the children's progress; training and support of personnel to work with parents, to coordinate parent activities, and to make contact in the home; use of parents as classroom volunteers, tutors, and aides; provision of school-to-home complementary curriculum and materials and assistance in implementing home-based education activities that reinforce classroom instruction and student motivation; provision of timely information on programs under this chapter (such as program plans and evaluations); soliciting parents' suggestions in the planning, development, and operation of the program; providing timely responses to parent recommendations; parent advisory councils; and other activities designed to enlist the support and participation of parents to aid in the instruction of their children. 102 STAT. 158

"(6) Parents of participating children are expected to cooperate with the local educational agency by becoming knowledgeable of the program goals and activities and by working to reinforce their children's training at home.

"(d) COORDINATION WITH ADULT EDUCATION ACT.—Programs of parental involvement shall coordinate, to the extent possible, with programs funded under the Adult Education Act.

"(e) ACCESSIBILITY REQUIREMENT.—Information, programs, and activities for parents pursuant to this section shall be provided, to the extent practicable, in a language and form which the parents understand.

"SEC. 1017. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

Disadvantaged persons.
20 USC 2727.

"(a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall, after timely and meaningful consultation with appropriate private school officials, make provisions for including special educational services and arrangements (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) in which such children can participate and which meet the requirements of sections 1011(a), 1012(b)(1), 1013, 1014, and 1018(b). Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

"(b) BYPASS PROVISION.—

"(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall waive such requirements, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(2) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall arrange for the provision

of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

"(3)(A) The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other concerned organizations or individuals concerning violations of this section. The Secretary shall investigate and resolve each such complaint within 120 days after receipt of the complaint.

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"(B) When the Secretary arranges for services pursuant to this subsection, the Secretary shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this chapter.

"(C) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State or local educational agency the amount the Secretary estimates would be necessary to pay the cost of such services.

"(D) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

"(4)(A) The Secretary shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or a designee to show cause why such action should not be taken.

"(B) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

"(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(c) PRIOR DETERMINATION.—Any bypass determination by the Secretary under title I of the Elementary and Secondary Education Act of 1965, as in effect prior to July 1, 1988, or chapter 1 of the Education Consolidation and Improvement Act of 1981 shall remain in effect to the extent consistent with the purposes of this chapter.

"(d) CAPITAL EXPENSES.—

"(1) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with the provisions of this subsection. State educational agen-

cies shall distribute funds to local educational agencies based on the degree of need as set forth in the application. Such an application shall contain information on such capital expenses by fiscal year and shall contain an assurance that any funds received pursuant to this subsection shall be used solely for purposes of the program authorized by this chapter. 102 STAT. 160

"(2)(A) From the amount appropriated for the purposes of this subsection for any fiscal year, the amount which each State shall be eligible to receive shall be an amount which bears the same ratio to the amount appropriated as the number of children enrolled in private schools who were served under chapter 1 of the Education Consolidation and Improvement Act of 1981 in the State during the period July 1, 1984 through June 30, 1985, bears to the total number of such children served during such period in all States.

"(B) Amounts which are not used by a State for the purposes of this subsection shall be reallocated by the Secretary among other States on the basis of need.

"(3) There is authorized to be appropriated $30,000,000 for fiscal year 1988, $40,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993. Any sums appropriated under this provision shall be used for increases in capital expenses paid from funds under chapter 1 of the Education Consolidation and Improvement Act or this section subsequent to July 1, 1985, of local educational agencies in providing the instructional services required under section 557 of the Education Consolidation and Improvement Act and this section, when without such funds, services to private schoolchildren would have been or have been reduced or would be reduced or adversely affected. Appropriation authorization.

"(4) For the purposes of this subsection, the term 'capital expenses' is limited to expenditures for noninstructional goods and services such as the purchase, lease and renovation of real and personal property (including but not limited to mobile educational units and leasing of neutral sites or space), insurance and maintenance costs, transportation, and other comparable goods and services.

"SEC. 1018. FISCAL REQUIREMENTS. 20 USC 2728.

"(a) MAINTENANCE OF EFFORT.—

"(1) Except as provided in paragraph (2), a local educational agency may receive funds under this chapter for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The State educational agency shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years. 102 STAT. 161

"(3) Each State educational agency may waive, for 1 fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

"(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.—A State educational agency or other State agency in operating its State level programs or a local educational

agency may use funds received under this chapter only so as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this chapter and in no case may such funds be so used as to supplant such funds from such non-Federal sources. In order to demonstrate compliance with this subsection, no State educational agency, other State agency, or local educational agency shall be required to provide services under this chapter through use of a particular instructional method or in a particular instructional setting.

"(c) COMPARABILITY OF SERVICES.—

"(1) A local educational agency may receive funds under this chapter only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this chapter. Where all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable in each project area.

"(2)(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if it has filed with the State educational agency a written assurance that it has established and implemented—

"(i) a districtwide salary schedule;

"(ii) a policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and

"(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

"(B) Unpredictable changes in student enrollment or personnel assignments which occur after the beginning of a school year shall not be included as a factor in determining comparability of services.

Records.

"(3) Each educational agency shall develop procedures for compliance with the provisions of this subsection, and shall annually maintain records documenting compliance. Each State educational agency shall monitor the compliance of local educational agencies within the States with respect to the requirements of this subsection.

"(4) Each local educational agency with not more than 1 building for each grade span shall not be subject to the provisions of this subsection.

"(5) Each local educational agency which is found to be out of compliance with this subsection shall be subject to withholding or repayment of funds only to the amount or percentage by which the local educational agency has failed to comply.

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Disadvantaged persons.

"(d) EXCLUSION OF SPECIAL STATE AND LOCAL PROGRAM FUNDS.—

"(1)(A) For the purposes of determining compliance with the requirements of subsections (b) and (c), a local educational agency or a State agency operating a program under part D of this chapter may exclude State and local funds expended for carrying out special programs to meet the educational needs of educationally deprived children including compensatory education for educationally deprived children after prior determination pursuant to paragraphs (3) and (4) of this subsection that such programs meet the requirements of subparagraph (B).

"(B) A State or local program meets the requirements of this subparagraph if it is similar to programs assisted under this part. The Secretary shall consider a State or local program to be similar to programs assisted under this part if—

"(i) all children participating in the program are educationally deprived,

"(ii) the program is based on similar performance objectives related to educational achievement and is evaluated in a manner consistent with those performance objectives,

"(iii) the program provides supplementary services designed to meet the special educational needs of the children who are participating,

"(iv) the local educational agency keeps such records and affords such access thereto as are necessary to assure the correctness and verification of the requirements of this subparagraph, and Records.

"(v) the State educational agency monitors performance under the program to assure that the requirements of this subparagraph are met.

"(2)(A) For the purpose of determining compliance with the requirements of subsection (c), a local educational agency may exclude State and local funds expended for—

"(i) bilingual education for children of limited English proficiency, Minorities.

"(ii) special education for handicapped children, and Handicapped persons.

"(iii) certain State phase-in programs as described in subparagraph (B).

"(B) A State education program which is being phased into full operation meets the requirements of this subparagraph if the Secretary is satisfied that—

"(i) the program is authorized and governed specifically by the provisions of State law;

"(ii) the purpose of the program is to provide for the comprehensive and systematic restructuring of the total educational environment at the level of the individual school;

"(iii) the program is based on objectives, including but not limited to, performance objectives related to educational achievement and is evaluated in a manner consistent with those objectives;

"(iv) parents and school staff are involved in comprehensive planning, implementation, and evaluation of the program;

"(v) the program will benefit all children in a particular school or grade-span within a school;

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"(vi) schools participating in a program describe, in a school level plan, program strategies for meeting the special educational needs of educationally deprived children;

"(vii) at all times during such phase-in period at least 50 percent of the schools participating in the program are the schools serving project areas which have the greatest number or concentrations of educationally deprived children or children from low-income families;

"(viii) State funds made available for the phase-in program will supplement, and not supplant, State and local funds which would, in the absence of the phase-in program, have been provided for schools participating in such program;

"(ix) the local educational agency is separately accountable, for purposes of compliance with the clauses of this subparagraph, to the State educational agency for any funds expended for such program; and

"(x) the local educational agencies carrying out the program are complying with the clauses of this subparagraph and the State educational agency is complying with applicable provisions of this paragraph.

"(3) The Secretary shall make an advance determination of whether or not a State program meets the requirements of this subsection. The Secretary shall require each State educational agency to submit the provisions of State law together with implementing rules, regulations, orders, guidelines, and interpretations which are necessary for an advance determina-

tion. The Secretary's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent State law affecting the program, the State educational agency shall submit such changes to the Secretary.

"(4) The State educational agency shall make an advance determination of whether or not a local program meets the requirements of this subsection. The State educational agency shall require each local educational agency to submit the provisions of local law, together with implementing rules, regulations, guidelines, and interpretations which are necessary to make such an advance determination. The State educational agency's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent local law affecting the program, the local educational agency shall submit such changes to the State educational agency.

20 USC 2729.

"SEC. 1019. EVALUATIONS.

"(a) LOCAL EVALUATION.—Each local educational agency shall—

"(1) evaluate the effectiveness of programs assisted under this part, in accordance with national standards developed according to section 1435, at least once every 3 years (using objective measurement of individual student achievement in basic skills and more advanced skills, aggregated for the local educational agency as a whole) as an indicator of the impact of the program;

"(2) submit such evaluation results to the State educational agency at least once during each 3-year application cycle;

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"(3) determine whether improved performance under paragraph (1) is sustained over a period of more than one program year.

"(b) STATE EVALUATIONS.—In accordance with national standards, each State educational agency shall—

Public information.

"(1) conduct an evaluation (based on local evaluation data collected under subsection (a) and sections 1107(b), 1202(a)(6), and 1242(d)) of the programs assisted under this chapter at least every 2 years, submit that evaluation to the Secretary and make public the results of that evaluation;

"(2) inform local educational agencies, in advance, of the specific evaluation data that will be needed and how it may be collected; and

Handicapped persons.

"(3) collect data on the race, age, gender, and number of children with handicapping conditions served by the programs assisted under this chapter and on the number of children served by grade-level under the programs assisted under this chapter and annually submit such data to the Secretary.

"(c) SPECIAL CONDITION.—Projects funded under this part that serve only preschool, kindergarten, or first grade students or students in such grade levels who are included in projects serving children above such grade levels shall not be subject to the requirements of subsection (a).

20 USC 2730.

"SEC. 1020. STATE EDUCATIONAL PROGRAM IMPROVEMENT PLAN.

"(a) PLAN REQUIREMENTS.—A State educational agency which receives funds under part A, part C, and part E of this chapter shall develop, in consultation with a committee of practitioners constituted pursuant to section 1451(b) of this chapter, a plan to ensure implementation of the provisions of this section and section 1021. Each such plan shall contain, but shall not be limited to—

"(1) the objective measures and standards the State educational agency and other agencies receiving funds under part A, part C, and part E of this chapter will use to assess aggregate performance pursuant to section 1021, and may include implementation of section 1019;

"(2) the means the State educational agency will use to develop joint plans with local educational agencies which have

identified, pursuant to section 1021(b), schools in need of program improvement to attain satisfactory student progress, the timetable for developing and implementing such plans (within parameters defined pursuant to section 1431) and the program improvement assistance that will be provided to such schools pursuant to section 1021. Such program improvement assistance may include, but shall not be limited to, training and retraining of personnel, development of curricula that has shown promise in similar schools, replication of promising practices in effective schools models, improving coordination between programs assisted under this chapter and the regular school program, and the development of innovative strategies to enhance parental involvement.

"(b) DISSEMINATION AND AVAILABILITY OF PLAN.—(1) The State educational agency shall disseminate the plan developed under this subsection to all local educational agencies and other State agencies receiving funds under this chapter.

"(2) The State educational program improvement plan shall be available at the State educational agency for inspection by the Secretary and may be amended by the State educational agency after consultation with a committee of practitioners when necessary. 102 STAT. 165

"(c) AVAILABILITY OF FUNDS.—In any fiscal year for which appropriations are made pursuant to section 1405, the State educational agency shall fully implement the program improvement activities described in sections 1020 and 1021. In any fiscal year for which appropriations are not made, the State educational agency shall conduct, at a minimum, the activities required under section 1021(d), and other program improvement activities to the extent practicable.

"SEC. 1021. PROGRAM IMPROVEMENT. 20 USC 2731.

"(a) LOCAL REVIEW.—Each local educational agency shall—

"(1) conduct an annual review of the program's effectiveness in improving student performance for which purpose the local educational agency shall use outcomes developed pursuant to section 1012 and subsection (b) of this section, and make the results of such review available to teachers, parents of participating children, and other appropriate parties;

"(2) determine whether improved performance under paragraph (1) is sustained over a period of more than one program year;

"(3) use the results of such review and of evaluation pursuant to section 1019 in program improvement efforts required by section 1021(b); and

"(4) annually assess through consultation with parents, the effectiveness of the parental involvement program and determine what action needs to be taken, if any, to increase parental participation.

"(b) SCHOOL PROGRAM IMPROVEMENT.—(1) With respect to each school which does not show substantial progress toward meeting the desired outcomes described in the local educational agency's application under section 1012(a) or shows no improvement or a decline in aggregate performance of children served under this chapter for one school year as assessed by measures developed pursuant to section 1019(a) or subsection (a), pursuant to the program improvement timetable developed under sections 1020 and 1431, the local educational agency shall—

"(A) develop and implement in coordination with such school a plan for program improvement which shall describe how such agency will identify and modify programs funded under this chapter for schools and children pursuant to this section and which shall incorporate those program changes which have the greatest likelihood of improving the performance of educationally disadvantaged children, including—

"(i) a description of educational strategies designed to achieve the stated program outcomes or to otherwise

improve the performance and meet the needs of eligible children; and

"(ii) a description of the resources, and how such resources will be applied, to carry out the strategies selected, including, as appropriate, qualified personnel, inservice training, curriculum materials, equipment, and physical facilities; and, where appropriate—

"(I) technical assistance;

"(II) alternative curriculum that has shown promise in similar schools;

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"(III) improving coordination between part A and part C of this chapter and the regular school program;

"(IV) evaluation of parent involvement;

"(V) appropriate inservice training for staff paid with funds under this chapter and other staff who teach children served under this chapter; and

"(VI) other measures selected by the local educational agency; and

"(B) submit the plan to the local school board and the State educational agency, and make it available to parents of children served under this chapter in that school.

"(2) A school which has 10 or fewer students served during an entire program year shall not be subject to the requirements of this subsection.

"(c) DISCRETIONARY ASSISTANCE.—The local educational agency may apply to the State educational agency for program improvement assistance funds authorized under section 1405.

"(d) STATE ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES.—(1) If after the locally developed program improvement plan shall have been in effect according to the timetable established under sections 1020 and 1431, the aggregate performance of children served under this chapter in a school does not meet the standards stated in subsections (a) and (b), the local educational agency shall, with the State educational agency, and in consultation with school staff and parents of participating children, develop and implement a joint plan for program improvement in that school until improved performance is sustained over a period of more than 1 year.

"(2) The State educational agency shall ensure that program improvement assistance is provided to each school identified under paragraph (1).

"(e) LOCAL CONDITIONS.—The local educational agency and the State educational agency, in performing their responsibilities under this section, shall take into consideration—

"(1) the mobility of the student population,

"(2) the extent of educational deprivation among program participants which may negatively affect improvement efforts,

"(3) the difficulties involved in dealing with older children in secondary school programs funded under this chapter,

"(4) whether indicators other than improved achievement demonstrate the positive effects on participating children of the activities funded under this chapter, and

"(5) whether a change in the review cycle pursuant to section 1019 or 1021(a)(1) or in the measurement instrument used or other measure-related phenomena has rendered results invalid or unreliable for that particular year.

"(f) STUDENT PROGRAM IMPROVEMENT.—On the basis of the evaluations and reviews under sections 1019(a)(1) and 1021(a)(1), each local educational agency shall—

"(1) identify students who have been served for a program year and have not met the standards stated in subsections (a) and (b),

"(2) consider modifications in the program offered to better serve students so identified, and

"(3) conduct a thorough assessment of the educational needs of students who remain in the program after 2 consecutive years of participation and have not met the standards stated in subsection (a).

"(g) PROGRAM IMPROVEMENT ASSISTANCE.—In carrying out the program improvement and student improvement activities required in subsections (a), (b), (c), and (d), local educational agencies and State educational agencies shall utilize the resources of the regional technical assistance centers and appropriate regional rural assistance programs established by section 1456 to the full extent such resources are available. 102 STAT. 167

"(h) FURTHER ACTION.—If the State educational agency finds that, consistent with the program improvement timetable established under sections 1020 and 1431, after one year under the joint plan developed pursuant to subsection (d), including services in accordance with section 1017, a school which continues to fall below the standards for improvement stated in subsections (a) and (b) with regard to the aggregate performance of children served under part A, part C, and part E of this chapter, the State educational agency shall, with the local educational agency, review the joint plan and make revisions which are designed to improve performance, and continue to do so each consecutive year until such performance is sustained over a period of more than one year. Nothing in this section or section 1020 shall be construed to give the State any authority concerning the educational program of a local educational agency that does not otherwise exist under State law.

"(i) MUTUAL AGREEMENT.—Before any joint plan may be implemented under subsection (d) and subsection (h) both the local educational agency and State educational agency must approve such plan.

"PART B—EVEN START PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"SEC. 1051. STATEMENT OF PURPOSE.

20 USC 2741.

"It is the purpose of this part to improve the educational opportunities of the Nation's children and adults by integrating early childhood education and adult education for parents into a unified program to be referred to as 'Even Start'. The program shall be implemented through cooperative projects that build on existing community resources to create a new range of services.

"SEC. 1052. PROGRAM AUTHORIZATION.

20 USC 2742.

"(a) GRANTS BY THE SECRETARY.—In any fiscal year in which the appropriations for this part do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part which are not inconsistent with the provisions of this subsection, to make grants to local educational agencies or consortia of such agencies to carry out Even Start programs.

"(b) STATE GRANT PROGRAM.—In any fiscal year in which the appropriations for this part equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part, to make grants to States from allocations under section 1053 to enable States to carry out Even Start programs.

"(c) DEFINITION.—For the purpose of this part, the term 'State' includes each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1053. ALLOCATION.

20 USC 2743.

"(a) RESERVATION FOR MIGRANT PROGRAMS.—The Secretary shall first reserve an amount equal to 3 percent of such amount for programs consistent with the purpose of this part for migrant children. Programs for which funds are reserved under this subsection shall be conducted through the Office of Migrant Education. 102 STAT. 168

"(b) STATE ALLOCATION.—Except as provided in section 1052(a) and subsection (c) of this section, each State shall be eligible to receive a grant under this part in each fiscal year that bears the same ratio to the remainder of the amount appropriated under section 1052(b) in that fiscal year as the amount allocated under section 1005 of this Act to the local educational agencies in the State bears to the total amount allocated to such agencies in all States.

"(c) STATE MINIMUM.—(1) Subject to the provisions of paragraph (2), no State shall receive less than the greater of—

"(A) one-half of one percent of the amount appropriated for this part and allocated under subsection (b) for any fiscal year; or

"(B) $250,000.

"(2)(A) No State shall, by reason of the application of the provisions of paragraph (1)(A) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this part in the fiscal year specified in subparagraph (A), multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this part for that year.

20 USC 2744.

"SEC. 1051. USES OF FUNDS.

"(a) IN GENERAL.—In carrying out the program under this part, funds made available to local educational agencies, in collaboration with, where appropriate, institutions of higher education, community-based organizations, the appropriate State educational agency, or other appropriate nonprofit organizations, shall be used to pay the Federal share of the cost of providing family-centered education programs which involve parents and children in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

"(b) PROGRAM ELEMENTS.—Each program assisted under this part shall include—

"(1) the identification and recruitment of eligible children;

"(2) screening and preparation of parents and children for participation, including testing, referral to necessary counseling, and related services;

"(3) design of programs and provision of support services (when unavailable from other sources) appropriate to the participants' work and other responsibilities, including—

"(A) scheduling and location of services to allow joint participation by parents and children;

"(B) child care for the period that parents are involved in the program provided for under this part; and

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"(C) transportation for the purpose of enabling parents and their children to participate in the program authorized by this part;

"(4) the establishment of instructional programs that promote adult literacy, training parents to support the educational growth of their children, and preparation of children for success in regular school programs;

"(5) provision of special training to enable staff to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this part (including child care staff in programs enrolling children of participants under this part on a space available basis);

"(6) provision of and monitoring of integrated instructional services to participating parents and children through home-based programs; and

"(7) coordination of programs assisted under this part with programs assisted under this chapter and any relevant programs under chapter 2 of this title, the Adult Education Act, the Education of the Handicapped Act, the Job Training Part-

nership Act, and with the Head Start program, volunteer literacy programs, and other relevant programs.

"(c) FEDERAL SHARE LIMITATION.—The Federal share under this part may be—

"(1) not more than 90 percent of the total cost of the program in the first year the local educational agency receives assistance under this part,

"(2) 80 percent in the second such year,

"(3) 70 percent in the third such year, and

"(4) 60 percent in the fourth and any subsequent such year. Funds may not be used for indirect costs. The remaining cost may be obtained from any source other than funds made available for programs under this title.

"SEC. 1055. ELIGIBLE PARTICIPANTS. 20 USC 2745.

"Eligible participants shall be—

"(1) a parent or parents who are eligible for participation in an adult basic education program under the Adult Education Act; and

"(2) the child or children (aged 1 to 7, inclusive), of any individual under paragraph (1), who reside in a school attendance area designated for participation in programs under part A.

"SEC. 1056. APPLICATIONS. 20 USC 2746.

"(a) SUBMISSION.—To be eligible to receive a grant under this part a local educational agency shall submit an application to the Secretary under section 1052(a) and to the State educational agency under section 1052(b) in such form and containing or accompanied by such information as the Secretary or the State educational agency, as the case may be, may require. Grants.

"(b) REQUIRED DOCUMENTATION.—Such application shall include documentation that the local educational agency has the qualified personnel required—

"(1) to develop, administer, and implement the program required by this part, and

"(2) to provide special training necessary to prepare staff for the program.

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"(c) PLAN.—Such application shall also include a plan of operation for the program which includes—

"(1) a description of the program goals;

"(2) a description of the activities and services which will be provided under the program (including training and preparation of staff);

"(3) a description of the population to be served and an estimate of the number of participants;

"(4) if appropriate, a description of the collaborative efforts of the institutions of higher education, community-based organizations, the appropriate State educational agency, private elementary schools, or other appropriate nonprofit organizations in carrying out the program for which assistance is sought;

"(5) a statement of the methods which will be used—

"(A) to ensure that the programs will serve those eligible participants most in need of the activities and services provided by this part;

"(B) to provide services under this part to special populations, such as individuals with limited English proficiency and individuals with handicaps; and Disadvantaged persons. Handicapped persons.

"(C) to encourage participants to remain in the programs for a time sufficient to meet program goals; and

"(6) a description of the methods by which the applicant will coordinate programs under this part with programs under chapter 1 and chapter 2, where appropriate, of this title, the Adult Education Act, the Job Training Partnership Act, and with Head Start programs, volunteer literacy programs, and other relevant programs.

20 USC 2747.

"SEC. 1057. AWARD OF GRANTS.

"(a) SELECTION PROCESS.—The Secretary or each State educational agency, as the case may be, shall appoint a review panel that will award grants on the basis of proposals which—

"(1) are most likely to be successful in meeting the goals of this part;

"(2) serve the greatest percentage of eligible children and parents as described in section 1055;

"(3) demonstrate the greatest degree of cooperation and coordination between a variety of relevant service providers in all phases of the program;

"(4) submit budgets which appear reasonable, given the scope of the proposal;

"(5) demonstrate the local educational agency's ability to provide additional funding under section 1054(c);

"(6) are representative of urban and rural regions of the State or of the United States, as the case may be; and

"(7) show the greatest promise for providing models which may be transferred to other local educational agencies.

"(b) REVIEW PANEL.—A review panel shall, to the extent practicable, consist of 7 members as follows:

"(1) an early childhood education professional;

"(2) an adult education professional;

"(3) a representative of parent-child education organizations;

"(4) a representative of community-based literacy organizations;

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"(5) a member of a local board of education;

"(6) a representative of business and industry with a commitment to education; and

"(7) an individual involved in the implementation of programs under this chapter within the State.

The panel shall contain members described in paragraphs (1), (2), (6), and (7).

Urban areas.
Rural areas.

"(c) EQUITABLE DISTRIBUTION OF ASSISTANCE.—In approving grants under this part under section 1052(a), the Secretary shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(d) DURATION.—(1) Grants may be awarded for a period not to exceed 4 years. In any application from a local educational agency for a grant to continue a project for the second, third, or fourth fiscal year following the first fiscal year in which a grant was awarded to such local educational agency, the Secretary or the State educational agency, as the case may be, shall review the progress being made toward meeting the objectives of the project. The Secretary or the State educational agency, as the case may be, may refuse to award a grant if the Secretary or such agency finds that sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for a hearing.

"(2) The Secretary shall establish criteria for carrying out the provisions of paragraph (1) in the transition fiscal year whenever the provisions of section 1052(b) apply to authorized State grant programs.

20 USC 2748.

"SEC. 1058. EVALUATION.

"(a) INDEPENDENT ANNUAL EVALUATION.—The Secretary shall provide for the annual independent evaluation of programs under this part to determine their effectiveness in providing—

"(1) services to special populations;

"(2) adult education services;

"(3) parent training;

"(4) home-based programs involving parents and children,

"(5) coordination with related programs; and

"(6) training of related personnel in appropriate skill areas.

"(b) CRITERIA.—

"(1) Each evaluation shall be conducted by individuals not directly involved in the administration of the program or project operated under this part. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors under subsection (a). When possible, each evaluation shall include comparisons with appropriate control groups.

"(2) In order to determine a program's effectiveness in achieving its stated goals, each evaluation shall contain objective measures of such goals and, whenever feasible, shall obtain the specific views of program participants about such programs.

"(c) REPORT TO CONGRESS AND DISSEMINATION.—The Secretary shall prepare and submit to the Congress a review and summary of the results of such evaluations not later than September 30, 1993. The annual evaluations shall be submitted to the National Diffusion Network for consideration for possible dissemination.

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"SEC. 1059. AUTHORIZATION OF APPROPRIATIONS. 20 USC 2749.

"There are authorized to be appropriated for the purposes of this part $50,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"PART C—SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY

"SEC. 1101. PURPOSE. Disadvantaged persons. 20 USC 2761.

"It is the purpose of this subpart to provide additional assistance to local educational agencies with high concentrations of low-income children, low-achieving children, or school dropouts to improve the achievement of educationally disadvantaged children enrolled in secondary schools of such agencies, and to reduce the number of youths who do not complete their elementary and secondary education.

"SEC. 1102. ALLOCATION. 20 USC 2762.

"(a) RESERVATION FOR MIGRANT PROGRAMS.—From the amount appropriated under section 1108 for the fiscal years 1990, 1991, 1992, and 1993, the Secretary shall first reserve an amount equal to 3 percent of such amount for programs consistent with the purpose of this part for school dropout prevention and reentry programs and secondary school basic skills improvement programs for migrant children. Programs for which funds are reserved under this subsection shall be conducted through the Office of Migrant Education.

"(b) STATE ALLOCATION.—Except as provided in subsection (c), each State shall be eligible to receive a grant under this part in each fiscal year that bears the same ratio to the remainder of the amount appropriated in that fiscal year as the amount allocated under section 1005 of this Act to the local educational agencies in the State bears to the total amount allocated to such agencies in all States. Grants.

"(c) STATE MINIMUM.—(1) No State shall receive less than the greater of—

"(A) one-quarter of 1 percent of the amount appropriated for this part and allocated under subsection (b) for any fiscal year; or

"(B) $250,000.

"(2)(A) No State shall, by reason of the application of the provisions of paragraph (1)(A) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this part in the fiscal year specified in subparagraph (A), multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this part for that year.

"(d) LOCAL EDUCATIONAL AGENCY ALLOCATION.—Each State educational agency shall allocate funds among local educational agencies in the State on the basis of—

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"(1) the eligibility of such agency for funds under section 1005 of this Act; and

"(2) the criteria described in section 1105.

Each local educational agency may carry out the activities described in section 1103 in cooperation with community-based organizations.

"(e) STATE ADMINISTRATION.—A State may reserve not more than 5 percent of the amounts available under this part for any fiscal year for State administrative costs.

20 USC 2763.

"SEC. 1103. USES OF FUNDS.

"(a) GENERAL RULE.—A local educational agency may use—

"(1) the remainder of such funds for secondary schools basic skills improvement activities pursuant to subsection (b), and

"(2) not to exceed 50 percent of funds paid under this part in any fiscal year for dropout prevention and reentry activities pursuant to subsection (c).

"(b) BASIC SKILLS FOR SECONDARY SCHOOLS.—Funds made available under this subpart may be used—

"(1) to initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

"(2) to develop innovative approaches for—

"(A) surmounting barriers that make secondary school programs under this subpart difficult for certain students to attend and difficult for secondary schools to administer, such as scheduling problems; and

"(B) courses leading to successful completion of the general education development test or of graduation requirements;

"(3) to develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, preemployment training, or transition-to-work activities;

"(4) to provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

"(5) to use the resources of the community to assist in providing services to the target population;

"(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

"(7) to provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other student services which are necessary to assist eligible students; and

"(8) to recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this subpart and under part A, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

"(c) USES OF FUNDS FOR SCHOOL DROPOUT PREVENTION AND RE-ENTRY PROJECTS.—Funds made available under this subsection may be used for— 102 STAT. 174

"(1) effective programs which identify potential student dropouts and prevent them from dropping out of elementary and secondary school;

"(2) effective programs which identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

"(3) effective programs for early intervention designed to identify at-risk students in elementary and early secondary schools;

"(4) model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school;

"(5) school dropout programs which include coordinated services and activities with programs of vocational education, adult basic education, and programs under the Job Training Partnership Act;

"(6) projects which are carried out in consortia with a community-based organization, any nonprofit private organization, institution of higher education, State educational agency, State and local public agencies, private industry councils (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station, or community-based organization; or

"(7) any of the activities described in section 6005 or 6006 of title VI.

"(d) LIMITATION.—Not more than 25 percent of amounts available may be used by a local educational agency for noninstructional services.

"SEC. 1104. APPLICATIONS. 20 USC 2764.

"(a) APPLICATION REQUIRED.—Any local educational agency which desires to receive a grant under this part shall submit to the State educational agency an application which describes the program to be supported with funds under this part and complies with the provisions of subsection (b).

"(b) CONTENTS OF APPLICATION.—Each application submitted under subsection (a) shall—

"(1) describe the program goals and the manner in which funds will be used to initiate or expand services to secondary school students, school dropouts, and potential school dropouts;

"(2) describe the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel required to develop, administer, and implement the program under this part);

"(3) assure that the programs will be conducted in schools with the greatest need for assistance, in terms of achievement levels, poverty rates, or school dropout rates;

"(4) assure that the programs will serve those eligible students most in need of the activities and services provided by this part; 102 STAT. 175

"(5) assure that services will be provided under this part, as appropriate, to special populations, such as individuals with limited English proficiency and individuals with handicaps; Disadvantaged persons. Handicapped persons.

"(6) assure that parents of eligible students will be involved in the development and implementation of programs under this part;

"(7) describe the methods by which the applicant will coordinate programs under this part with programs for the eligible student population operated by community-based organizations,

social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Adult Education Act, the Job Training Partnership Act, and other relevant Acts;

"(8) assure that, if feasible, the local educational agency will enter into arrangements with local businesses, labor organizations, or chambers of commerce under which such businesses and organizations will help secure employment for graduates of schools operating projects under this part;

"(9) assure that to the extent consistent with the number of students in the school district of the local educational agency who are enrolled in private secondary schools, such agency shall, after timely and meaningful consultation with appropriate private school officials, make provision for including such services and arrangements for the benefit of such students as will assure their equitable participation in the purposes and benefits of this part; and

"(10) provide such other information as the State educational agency may require to determine the nature and quality of the proposed project and the applicant's ability to carry it out.

"(c) SPECIAL RULE.—If the Secretary determines that a local educational agency has substantially failed to comply with paragraph (9) (by reason of State law or otherwise) or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirement, and, subject to the provisions of section 1017(b) of part A of this chapter, shall arrange for the provision of services to such students.

"(d) DURATION OF GRANTS.—Grants may be awarded for a period of 3 years.

20 USC 2765.

"SEC. 1105. AWARD OF GRANTS.

"Each State educational agency shall award grants to local educational agencies within the State which—

Disadvantaged persons.

"(1) demonstrate the greatest need for services provided under this part based on their numbers of low-income children, numbers of low-achieving children, or numbers of school dropouts;

Urban areas. Rural areas.

"(2) are representative of urban and rural regions of the State;

"(3) offer innovative approaches to improving achievement among eligible youth or offer approaches which show promise for replication and dissemination; and

"(4) offer innovative approaches to reducing the number of school dropouts.

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20 USC 2766.

"SEC. 1106. FISCAL REQUIREMENTS AND COORDINATION PROVISIONS.

"(a) GENERAL RULE.—(1) The provisions of subsections (a) through (d) of section 1018 of this Act shall apply to the program authorized by this part.

"(2) ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant may be used for local administrative costs.

"(3) COORDINATION AND DISSEMINATION.—Local educational agencies receiving grants under this part shall cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

"(b) SPECIAL RULE.—(1) Each local educational agency shall use funds under this part to supplement the level of funds under this chapter that are used for secondary school programs.

"(2) In order to comply with paragraph (1), any local educational agency which operates secondary school programs funded under chapter 1 of the Education Consolidation and Improvement Act of 1981 or part A of this Act and which is operating secondary school basic skills programs under this part shall continue the same aggregate level of funding for such programs, at the same schools or at other eligible schools within the local educational agency.

"SEC. 1107. EVALUATION. 20 USC 2767.

"The provisions of sections 1019 and 1021 shall apply to local educational agencies receiving grants under this part.

"SEC. 1108. AUTHORIZATION OF APPROPRIATIONS. 20 USC 2768.

"There are authorized to be appropriated $400,000,000 for the fiscal year 1990, $450,000,000 for the fiscal year 1991, $500,000,000 for the fiscal year 1992, and $550,000,000 for the fiscal year 1993 to carry out this part.

"PART D—PROGRAMS OPERATED BY STATE AGENCIES

"Subpart 1—Programs for Migratory Children

"SEC. 1201. GRANTS—ENTITLEMENT AND AMOUNT. 20 USC 2781.

"(a) ENTITLEMENT.—A State educational agency or a combination of such agencies shall, upon application, be entitled to receive a grant for any fiscal year under this part to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen which meet the requirements of section 1202.

"(b) AMOUNT OF GRANT.—(1) Except as provided in section 1291, the total grants which shall be made available for use in any State (other than the Commonwealth of Puerto Rico) for this subpart shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States) multiplied by (i) the estimated number of such migratory children aged 3 to 21, inclusive, who reside in the State full time, and (ii) the full-time equivalent of the estimated number of such migratory children aged 3 to 21, inclusive, who reside in the State part time, as determined by the Secretary in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under section 1202, the Secretary shall allocate such excess, to the extent necessary, to other States, whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. In determining the full-time equivalent number of migratory children who are in a State during the summer months, the Secretary shall adjust the number so determined to take into account the special needs of those children for summer programs and the additional costs of operating such programs during the summer. In determining the number of migrant children for the purposes of this section the Secretary shall use statistics made available by the migrant student record transfer system or such other system as the Secretary may determine most accurately and fully reflects the actual number of migrant students. In submitting the information required to make such determination, the States may not exceed a standard error rate of 5 percent. 102 STAT. 177

"(2) To carry out the determinations of eligibility required by this section, the Secretary shall develop a national standard form for certification of migrant students.

"(3) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of such migrant children in the Commonwealth of Puerto Rico by the product of— Puerto Rico.

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

20 USC 2782.

"SEC. 1202. PROGRAM REQUIREMENTS.

"(a) REQUIREMENTS FOR APPROVAL OF APPLICATION.—The Secretary may approve an application submitted under section 1201(a) only upon a determination—

Records.

"(1) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen, and to coordinate such programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

"(2) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under section 418 of the Higher Education Act, section 402 of the Job Training Partnership Act, the Education of the Handicapped Act, the Community Services Block Grant Act, the Head Start program, the migrant health program, and all other appropriate programs under the Departments of Education, Labor, and Agriculture;

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"(3) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of section 1011 (other than subsection (b)), sections 1012, 1014, and 1018, and subpart 2 of part F;

"(4) that, in the planning and operation of programs and projects at both the State and local educational agency level, there is appropriate consultation with parent advisory councils (established in order to comply with this provision) for programs extending for the duration of a school year, and that all programs are carried out in a manner consistent with the requirements of section 1016;

"(5) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool education needs of migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen; and

"(6) that programs conducted under this subpart will be evaluated in terms of their effectiveness in achieving stated goals, including objective measurements of educational achievement in basic skills, and that for formerly migratory children who have been served under this subpart in a full school year program for at least 2 years, such evaluations shall include a determination of whether improved performance is sustained for more than 1 year.

"(b) CONTINUATION OF MIGRANT STATUS.—For purposes of this subpart, with the concurrence of the parents, a migratory child of a migratory agricultural worker (including migratory agricultural dairy workers) or of a migratory fisherman shall be considered to continue to be such a child for a period, not in excess of 5 years. Such children who are currently migrant, as determined pursuant to regulations of the Secretary, shall be given priority in the consideration of programs and activities contained in applications submitted under this section.

"(c) DEFINITIONS.—The Secretary shall continue to use the definitions of 'agricultural activity', 'currently migratory child', and 'fishing activity' which were published in the Federal Register on April 30, 1985, in regulations prescribed under section 555(b) of the Education Consolidation and Improvement Act of 1981 and subpart 1 of part B of title I of the Elementary and Secondary Education Act of 1965 (as in effect on April 30, 1985). No additional definition of

'migratory agricultural worker' or 'migratory fisherman' may be applied to the provisions of this subpart.

"(d) BYPASS PROVISION.—If the Secretary determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen, that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, the Secretary may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in 1 or more States, and for this purpose the Secretary may use all or part of the total of grants available for any such State under this subpart.

"SEC. 1203. COORDINATION OF MIGRANT EDUCATION ACTIVITIES. 20 USC 2783.

"(a) ACTIVITIES AUTHORIZED.—(1) The Secretary is authorized to make grants to, and enter into contracts with, State educational agencies (in consultation with and with the approval of the States) for activities to improve the interstate and intrastate coordination among State and local educational agencies of the educational programs available for migratory students. Each grant issued under this paragraph shall not exceed 3 years for its stated purpose. Grants. Contracts.

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"(2)(A) The Secretary is also authorized to enter into contracts with State educational agencies to operate a system for the transfer among State and local educational agencies of migrant student records (including individualized education programs approved under the Education of the Handicapped Act).

"(B) Except as provided in subparagraph (C), for the purpose of ensuring continuity in the operation of such system, the Secretary shall, not later than July 1 of each year, continue to award such contract to the State educational agency receiving the award in the preceding year, unless a majority of the States notify the Secretary in writing that such agency has substantially failed to perform its responsibilities under the contract during that preceding year.

"(C) Beginning on July 1, 1992, and every 4 years thereafter, the Secretary shall conduct a competition to award such contract. Effective date.

"(D) No activity under this section shall, for purposes of any Federal law, be treated as an information collection that is conducted or sponsored by a Federal agency.

"(3) Grants or contracts shall also be made under this section to State educational agencies to develop and establish a national program of credit exchange and accrual for migrant students so that such students will be better able to meet graduation requirements and receive their high school diplomas. Such grants or contracts may not exceed 3 years.

"(b) AVAILABILITY OF FUNDS.—The Secretary shall, from the funds appropriated for carrying out this subpart, reserve for purposes of this section for any fiscal year an amount, determined by the Secretary, which shall not be less than $C 000,000 nor more than 5 percent of the amount appropriated.

"Subpart 2—Programs for Handicapped Children

"SEC. 1221. AMOUNT AND ELIGIBILITY. 20 USC 2791.

"(a) ELIGIBILITY FOR GRANT.—(1) A State educational agency shall be eligible to receive a grant under this subpart for any fiscal year for programs (as defined in sections 1222 and 1223) for handicapped children (as defined in paragraph (2)(B)).

"(2) For the purpose of this subpart—

"(A) 'children' includes infants and toddlers described in part H of the Education of the Handicapped Act, as appropriate, and

"(B) 'handicapped children' means children who by reason of their handicap require special education and related services, or in the case of infants and toddlers, require early intervention services and who are mentally retarded, hard of hearing, deaf,

speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children or children with specific learning disabilities.

Grants.

"(b) STATE EDUCATIONAL AGENCY APPLICATION.—In order to receive a grant under this subpart, a State educational agency shall submit an application to the Secretary which provides assurances

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that—

"(1) all handicapped children (other than handicapped infants and toddlers) in the State participating in programs and projects funded under this subpart receive a free appropriate public education and such children and such children's parents are provided all the rights and procedural safeguards under part B of the Education of the Handicapped Act and this subpart and that all handicapped infants and toddlers in the State participating under this subpart receive early intervention services and such infants and toddlers and their families are provided the rights and procedural safeguards under part H of such Act;

"(2) programs and projects receiving assistance under this subpart are administered in a manner consistent with this subpart, subpart 2 of part F, part B of the Education of the Handicapped Act, and as determined by the Secretary to be appropriate, part H of the Education of the Handicapped Act, including the monitoring by such agency of compliance under paragraph (1);

"(3) programs and projects under this subpart will be coordinated with services under the Education of the Handicapped Act;

"(4) for fiscal year 1991, and each subsequent fiscal year, the State educational agency will administer the program authorized by this subpart through the State office responsible for administering part B of the Education of the Handicapped Act;

Reports.

"(5) the agency will report annually to the Secretary—

"(A) the number of children served under this subpart for each disability and age category as described in part B of the Education of the Handicapped Act;

"(B) the number of children served under this subpart in each of the educational placements described in section 618(b)(2) of the Education of the Handicapped Act (and will report separately State-operated and State-supported programs and local educational agency programs for children previously served in such State programs); and

"(C) on the uses of funds and the allocation of such funds for such uses under this subpart; and

Reports.

"(6) the agency will report to the Secretary such other information as the Secretary may reasonably request.

"(c) AMOUNT OF GRANT.—(1) Except as provided in subsection (e) and section 1291, the grant which a State educational agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States), multiplied by the number of handicapped children, from birth through 21, enrolled on December 1, as determined by the Secretary, in programs or schools for handicapped infants, toddlers and children operated or supported by a State agency which—

"(i) is directly responsible for providing free public education

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for handicapped children (including schools or programs providing special education and related services for handicapped children under contract or other arrangement with such agency); or

"(ii) is directly responsible for providing early intervention services for handicapped infants or toddlers (including schools or programs providing special education and related services for handicapped children under contract or other arrangement with such agency),

in the most recent fiscal year for which satisfactory data are available. The State educational agency shall distribute such funds to the appropriate State agency on the basis of the December 1 child count by distributing an equal amount for each child counted.

"(2) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. Except as provided in subsection (e), a grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such handicapped children in the Commonwealth of Puerto Rico by the product of— Grants. Puerto Rico.

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

"(d) COUNTING OF CHILDREN TRANSFERRING FROM STATE TO LOCAL PROGRAMS.—In any case in which a child described in sections 1225(1)(A) and 1225(1)(B)(i) leaves an educational program for handicapped children operated or supported by a State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (c) if—

"(1) the child was receiving and continues to receive a free appropriate public education; and

"(2) the State educational agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State educational agency under this section which are attributable to such child, to be used for the purpose set forth in section 1223.

"(e) SPECIAL REQUIREMENT.—The State educational agency may count handicapped children aged 3 to 5, inclusive, in a State only if such State is eligible for a grant under section 619 of the Education of the Handicapped Act.

"SEC. 1222. PROGRAM REQUIREMENTS. 20 USC 2792.

"(a) GENERAL REQUIREMENTS.—A State educational agency shall use the payments made under this subpart for programs and projects (including the acquisition of equipment) which are designed to supplement the special education needs of handicapped children (other than handicapped infants and toddlers) or the early intervention needs of handicapped infants and toddlers. Such programs and projects shall be administered in a manner consistent with this subpart, subpart 2 of part F, part B of the Education of the Handicapped Act, and, as determined by the Secretary to be appropriate, part H of the Education of the Handicapped Act.

"(b) SERVICES.—Funds under this subpart shall be used to supplement the provision of special education and related services for handicapped children (other than handicapped infants and toddlers) or early intervention services for handicapped infants and toddlers. 102 STAT. 182

"(c) DEMONSTRATION OF BENEFIT.—Recipients of funds under this subpart shall collect and maintain such evaluations and assessments as may be necessary to demonstrate that the programs and projects were beneficial to the children served.

"SEC. 1223. USES OF FUNDS. 20 USC 2793.

"(a) GENERAL RULE.—Programs, and projects authorized under this subpart may include, but are not limited to—

"(1) services provided in early intervention, preschool, elementary, secondary, and transition programs;

"(2) acquisition of equipment and instructional materials;

"(3) employment of special personnel;

"(4) training and employment of education aides;

"(5) training in the use and provision of assistive devices and other specialized equipment;

"(6) training of teachers and other personnel;

"(7) training of parents of handicapped children;

"(8) training of nonhandicapped children to facilitate their participation with handicapped children in joint activities;

"(9) training of employers and independent living personnel involved in assisting the transition of handicapped children from school to the world of work and independent living;

"(10) outreach activities to identify and involve handicapped children and their families more fully in a wide range of educational and recreational activities in their communities; and

"(11) planning for, evaluation of, and dissemination of information regarding such programs and projects assisted under this subpart.

"(b) PROHIBITION.—Programs and projects authorized under this subpart may not include the construction of facilities.

20 USC 2794.

"SEC. 1221. SERVICE AND PROGRAM APPLICATIONS.

Grants.

"(a) APPLICATION REQUIRED.—A State agency or local educational agency may receive a grant under this subpart for any fiscal year if it has on file with the State educational agency an application which describes the services, programs, and projects to be conducted with such assistance for a period of not more than 3 years, and each such application has been approved by the State educational agency. Any State educational agency operating programs or projects under this subpart shall prepare a written description of such programs and projects in accordance with subsections (b) and (c).

"(b) REQUIREMENTS.—At a minimum each such application shall—

"(1) indicate the number of children to be served;

"(2) specify the number of children to be served for each disability and age category as described in part B of the Education of the Handicapped Act;

"(3) describe the purpose or purposes of the project and the method or methods of evaluating the effectiveness of the services, projects, or program;

"(4) specify the services to be provided with the funds furnished under this subpart; and

"(5) include other information the Secretary or State educational agency may request.

"(c) APPLICATION ASSURANCES.—Any such application shall provide assurances that—

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"(1) all handicapped children in the State (other than handicapped infants and toddlers) participating in programs and projects funded under this subpart receive a free appropriate public education and such children and such children's parents are provided all the rights and procedural safeguards under part B of the Education of the Handicapped Act and this subpart and that all handicapped infants and toddlers in the State participating under this subpart receive early intervention services and such infants and toddlers and their families are provided the rights and procedural safeguards under part H of such Act;

"(2) services, programs, and projects conducted under this subpart are of sufficient size, scope, and quality to give reasonable promise toward meeting the special educational and early intervention needs of children to be served;

"(3) funds made available under the subpart will supplement, not supplant State and local funds in accordance with section 1018(b);

"(4) the agency will maintain its fiscal effort in accordance with section 1018(a);

"(5) the agency will conduct such evaluations and assessments as may be necessary to demonstrate that the programs and projects are beneficial to the children served;

"(6) the parents of children to be served with funds under this subpart are provided an opportunity to participate in the development of its project application; and

"(7) the agency will comply with all reporting requirements in a timely manner.

"(d) LETTER OF REQUEST.—The State educational agency may accept, in lieu of a project application, a letter of request for payment from a local educational agency, if the local agency intends to serve fewer than 5 children with its payment. In such a letter the agency shall include an assurance that the payment will be used to supplement the provision of special education and related services.

"SEC. 1225. ELIGIBLE CHILDREN. 20 USC 2795.

"The children eligible for services under this subpart are—

"(1) those handicapped children from birth to 21, inclusive, who—

"(A) the State is directly responsible for providing special education or early intervention services to (including schools or programs providing special education and related services for handicapped children under contract or other arrangement with such agency), and

"(B)(i) are participating in a State-operated or State-supported school or program for handicapped children (including schools and programs operated under contract or other arrangement with a State agency), or

"(ii) previously participated in such a program and are receiving special education or early intervention services from local educational agencies; and

"(2) other handicapped children, if children described in paragraph (1) have been fully served.

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"SEC. 1226. FEDERAL MONITORING REQUIREMENT. 20 USC 2796.

"Whenever the Secretary conducts monitoring visits under part B of the Education of the Handicapped Act, the Secretary shall monitor the program authorized by this subpart, if applicable.

"Subpart 3—Programs for Neglected and Delinquent Children

"SEC. 1241. AMOUNT AND ENTITLEMENT. 20 USC 2801.

"(a) ENTITLEMENT TO GRANTS.—A State agency which is responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this subpart for any fiscal year (but only if grants received under this subpart are used only for children in such institutions).

"(b) AMOUNT OF GRANT.—(1) Except as provided in section 1291, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States) multiplied by the number of such neglected or delinquent children in average daily attendance, as determined by the Secretary, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

"(2) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil Puerto Rico.

expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such neglected or delinquent children in the Commonwealth of Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

20 USC 2802.

"SEC. 1242. PROGRAM REQUIREMENTS.

"(a) USE OF PAYMENTS.—A State agency shall use payments under this subpart only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of children in institutions for neglected or delinquent children, children attending community day programs for neglected and delinquent children, or children in adult correctional institutions. Such programs and projects shall be designed to support educational services supplemental to the basic education of such children which must be provided by the State, and such programs and projects shall

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be administered and carried out in a manner consistent with subpart 2 of part F and sections 1011(a), 1014, and section 1018 (other than subsection (c)). The transfer of neglected and delinquent student records among State and local educational agencies, institutions, and programs shall include any individualized education programs of such students.

Records.

"(b) COMPLIANCE.—In determining whether programs under this subpart have complied with the supplement not supplant requirement under section 1018(b), programs which are supplementary in terms of the number of hours of instruction students are receiving from State and local sources shall be considered in compliance without regard to the subject areas in which those instructional hours are given.

"(c) THREE-YEAR PROJECTS.—Where a State agency operates programs under this subpart in which children are likely to participate for more than 1 year, the State educational agency may approve the application for a grant under this subpart for a period of more than 1 year, but not to exceed 3 years.

"(d) EVALUATION.—Programs for neglected and delinquent children under this subpart shall be evaluated annually to determine their impact on the ability of such children to maintain and improve educational achievement, to maintain school credit in compliance with State requirements, and to make the transition to a regular program or special education program operated by a local educational agency.

20 USC 2803.

"SEC. 1243. TRANSITION SERVICES.

"(a) TRANSITION SERVICES.—Each State may reserve not more than 10 percent of the amount it receives under section 1241 for any fiscal year to support projects that facilitate the transition of children from State operated institutions for neglected and delinquent children into locally operated programs.

"(b) CONDUCT OF PROJECTS.—Projects supported under this section may be conducted directly by the State agency, or by contracts or other arrangements with one or more local educational agencies, other public agencies, or private nonprofit organizations.

"(c) LIMITATION.—Assistance under this section shall be used only to provide special educational services to neglected and delinquent children in schools other than State operated institutions.

20 USC 2804.

"SEC. 1244. DEFINITIONS.

"For the purposes of this subpart, the following terms have the following meanings:

"(1) The term 'institution for delinquent children', as determined by the State educational agency, means a public or

private residential facility that is operated for the care of children who have been determined to be delinquent or in need of supervision.

"(2) The term 'institution for neglected children' means, as determined by the State educational agency, a public or private residential facility (other than a foster home) that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of parents or guardians.

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"Subpart 4—General Provisions for State Operated Programs

"SEC. 1291. RESERVATION OF FUNDS FOR TERRITORIES. 20 USC 2811.

"There is authorized to be appropriated for each fiscal year for purposes of each of subparts 1, 2, and 3 of this part, an amount equal to not more than 1 percent of the amount appropriated for such year for such subparts, for payments to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands under each such subpart. The amounts appropriated for each such subpart shall be allotted among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Secretary determines will best carry out the purposes of this chapter. Appropriation authorization.

"SEC. 1292. DUAL ELIGIBILITY FOR PROGRAMS. 20 USC 2812.

"Neglected and delinquent children under subpart 3 who are eligible for programs for handicapped children under subpart 2, may be counted under each subpart for purposes of grant determination and may be served under each such program.

"PART E—PAYMENTS

"SEC. 1401. PAYMENT METHODS. 20 USC 2821.

"The Secretary shall, from time to time, pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this chapter. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this chapter or chapter 1 of the Education Consolidation and Improvement Act of 1981 (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

"SEC. 1402. AMOUNT OF PAYMENTS TO LOCAL EDUCATIONAL AGENCIES. 20 USC 2822.

"From the funds paid to it pursuant to section 1401 each State educational agency shall distribute to each local educational agency of the State which is eligible to receive a grant under this chapter and which has submitted an application approved pursuant to section 1012 the amount for which such application has been approved, and the amount which the local educational agency is eligible to receive under sections 1053 and 1102 except that the amount shall not exceed the amount determined for that local educational agency under this chapter.

"SEC. 1403. ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS. 20 USC 2823.

"(a) ADJUSTMENT ALLOCATION.—If the sums appropriated for any fiscal year for making the payments provided for in this chapter are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this chapter for such year, the amount available for each grant to a State agency eligible for a grant under subpart 1, 2, or 3 of part D shall be equal to the total amount of the grant as computed under each such subpart. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total Grants.

amounts which all local educational agencies are entitled to receive
102 STAT. 187 under subpart 1 of part A of this chapter for such year, the allocations to such agencies shall, subject to section 1006(c) and to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 percent of its allocation under subpart 1 of the part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 percent of its allocation for such year.

"(b) ADDITIONAL FUNDS ALLOCATION.—(1) If additional funds become available for making payments under this chapter for that year, allocations that were reduced pursuant to subsection (a) shall be increased on the same basis as they were reduced.

"(2) In order to permit the most effective use of all appropriations made to carry out this chapter, the Secretary may set dates by which (A) State educational agencies must certify to the Secretary the amounts for which the applications of educational agencies have been or will be approved by the State, and (B) State educational agencies referred to in subpart 1 of part D must file applications. If the maximum grant a local educational agency would receive (after any ratable reduction which may have been required under the first sentence of subsection (a) of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Secretary, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available by the State educational agency in furtherance of the purposes of this chapter shall be in accordance with criteria prescribed by the Secretary which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of section 1005(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding 2 sentences of this section, such excess amounts shall be distributed among the other States as the Secretary shall prescribe for use by local educational agencies in such States for the purposes of this chapter in such manner as the respective State educational agencies shall prescribe.

Grants.

20 USC 2824.

"SEC. 1404. PAYMENTS FOR STATE ADMINISTRATION.

"(a) IN GENERAL.—The Secretary is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this chapter (other than section 1021), except that the total of such payments in any fiscal year shall be the greater of the following:

"(1) 1 percent of the amount allocated to the State and its local educational agencies and to other State agencies as determined for that year under parts A and D; or

Territories, U.S.

"(2) $325,000, or $50,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or
102 STAT. 188 the Trust Territory of the Pacific Islands.

"(b) LIMITATION ON INDIRECT COSTS.—Not more than 15 percent of the State administrative allocation under subsection (a) may be used for indirect costs of the grant.

"SEC. 1405. FUNDS FOR THE IMPLEMENTATION OF SCHOOL IMPROVEMENT PROGRAMS. 20 USC 2825.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to pay, for the purpose of carrying out program improvement plans described in section 1021, to each State an amount equal to—

"(1)(A) 0.25 percent of the amount allocated to the State and its local educational agencies as determined under parts A and D for fiscal years 1989, 1990, and 1991; and

"(B) 0.5 percent of the amount allocated to the State and its local educational agencies as determined under parts A and D for fiscal years 1992 and 1993; or

"(2)(A) $90,000 or $15,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands for fiscal years 1989, 1990, and 1991; and

"(B) $180,000 or $30,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands for fiscal years 1992 and 1993. Territories, U.S.

"(b) LIMITATIONS.—(1) No funds made available to States under subsection (a) may be used for administrative functions related to any provisions of this chapter.

"(2) Funds made available to States under this section shall only be used for direct educational services in schools implementing program improvement plans as described under section 1021.

"(3) Parents of participating children, school staff, the local educational agency and the State educational agency shall jointly agree to the selection of providers of technical assistance and the best use of funds available under subsection (a) for the effective implementation of the program improvement plan. Uses of such funds include assistance from—

"(A) an institution of higher education;

"(B) federally supported educational laboratory or center;

"(C) State personnel with expertise in educational improvement;

"(D) locally, State, or nationally based consultants; and

"(E) other possible providers of the specific services required by the school's program plan.

"SEC. 1406. LIMITATION ON GRANT TO THE COMMONWEALTH OF PUERTO RICO. 20 USC 2826.

"Notwithstanding the provisions of this chapter, the amount paid to the Commonwealth of Puerto Rico under this chapter for any fiscal year shall not exceed 150 percent of the amount received by the Commonwealth of Puerto Rico under chapter 1 of the Education Consolidation and Improvement Act or under this chapter in the preceding fiscal year. Any excess over such amount shall be used to ratably increase the allocations under subpart 1 of part A of the other local educational agencies whose allocations do not exceed the maximum amount for which the agencies are eligible under section 1005.

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"PART F—GENERAL PROVISIONS

"Subpart 1—Federal Administration

"SEC. 1431. FEDERAL REGULATIONS. 20 USC 2831.

"(a) IN GENERAL.—The Secretary is authorized to issue such regulations as are considered necessary to reasonably ensure that there is compliance with the specific requirements and assurances required by this chapter.

"(b) PROCEDURE.—(1) Prior to publishing proposed regulations pursuant to this chapter, the Secretary shall convene regional meet-

ings which shall provide input to the Secretary on the content of proposed regulations. Such meetings shall include representatives of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with implementation of programs under this chapter.

"(2) Subsequent to regional meetings and prior to publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations and submit regulations on a minimum of 4 key issues to a modified negotiated rulemaking process as a demonstration of such process. The modified process shall waive application of the Federal Advisory Committee Act, but shall otherwise follow the guidance provided in the Administrative Conference of the United States in Recommendation 82-4, 'Procedures for Negotiating Proposed Regulations' (47 Fed. Reg. 30708, June 18, 1982) and any successor regulation. Participants in the demonstration shall be chosen by the Secretary from among participants in the regional meetings, representing the groups described in paragraph (1) and all geographic regions. The demonstration shall be conducted in a timely manner in order that final regulations may be issued by the Secretary within the 240-day period required by section 431(g) of the General Education Provisions Act.

"(3) In an emergency situation in which regulations pursuant to this chapter must be issued within a very limited time to assist State and local educational agencies with the operation of the program, the Secretary may issue a regulation without such prior consultation, but shall immediately thereafter convene regional meetings to review the emergency regulation prior to issuance in final form.

Federal Register, publication.

"(c) SPECIAL RULE.—Funds made available under sections 1437 and 1463 of this chapter shall be released for expenditure by the Secretary only at such time as final regulations pertaining to this chapter are published in the Federal Register.

"(d) LIMITATION.—Programs under this chapter may not be required to follow any 1 instructional model, such as the provision of services outside the regular classroom or school program.

20 USC 2832.

"SEC. 1432. AVAILABILITY OF APPROPRIATIONS.

"(a) GENERAL PROVISION.—Notwithstanding any other provision of law, unless expressly in limitation of this section, funds appropriated in any fiscal year to carry out activities under this chapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"(b) CARRYOVER AND WAIVER.—Notwithstanding section 412 of the General Education Provisions Act, subsection (a) or any other provision of law—

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"(1) not more than 25 percent of funds appropriated for fiscal year 1989 and 15 percent of funds appropriated for fiscal year 1990 and each subsequent year may remain available for obligation for 1 additional year;

"(2) a State educational agency may grant a 1-time waiver of the percentage limitation under paragraph (1) if the agency determines that the request by a local educational agency is reasonable and necessary or may grant a waiver in any fiscal year in which supplemental appropriations for this chapter become available for obligation; and

"(3) the percentage limitation under paragraph (1) shall not apply with respect to any local educational agency which receives less than $50,000 under this chapter for any fiscal year.

20 USC 2833.

"SEC. 1433. WITHHOLDING OF PAYMENTS.

"(a) WITHHOLDING.—Whenever the Secretary, after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurances required to be given or conditions required to be met under this chapter, the Secretary shall notify such agency of these findings and that beginning 60 days after the

date of such notification, further payments will not be made to the State under this chapter, or affected part or subpart thereof (or, in the Secretary's discretion, that the State educational agency shall reduce or terminate further payments under the affected part or subpart thereof, to specified local educational agencies or State agencies affected by the failure) until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, (1) no further payments shall be made to the State under the part or subpart thereof, or (2) payments by the State educational agency under the part or subpart thereof shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies shall be reduced, as the case may be.

"(b) NOTICE TO PUBLIC.—Upon submission to a State of a notice under subsection (a) that the Secretary is withholding payments, the Secretary shall take such action as may be necessary to bring the withholding of payments to the attention of the public within the State.

"SEC. 1434. JUDICIAL REVIEW. 20 USC 2834.

"(a) FILING APPEALS.—If any State is dissatisfied with the Secretary's action under section 1433(a), such State may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code. Records.

"(b) BASIS OF REVIEW.—For the purposes of this chapter, the basis of review shall be as provided in section 458(c) of the General Education Provisions Act. 102 STAT. 191

"(c) JUDICIAL APPEALS.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari of certification as provided in section 1254 of title 28, United States Code.

"SEC. 1435. EVALUATION. 20 USC 2835.

"(a) NATIONAL STANDARDS.—In consultation with State and local educational agencies (including members of State and local boards of education and parent representatives), the Secretary shall develop national standards for local evaluation of programs under this chapter. In developing such standards, the Secretary may use the Title I Evaluation and Reporting System designed and implemented under title I of this Act, as in effect prior to the date of the enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 as the model. The Secretary shall provide advance notification to State and local educational agencies of the requirements of such national standards of evaluations.

"(b) REPORTS.—The Secretary shall submit a comprehensive and detailed report concerning State and local evaluation results based on data collected under sections 1019, 1107, 1202(a)(6), and 1242(d) to the appropriate committees of the Congress on a biennial basis.

"SEC. 1436. COORDINATION OF FEDERAL, STATE, AND LOCAL ADMINISTRATION. 20 USC 2836.

"(a) POLICY MANUAL.—The Secretary shall, not later than 6 months after the publication of final regulations with respect to this chapter, prepare and distribute to State educational agencies, State agencies operating programs under part D, and local educational

agencies, and shall make available to parents and other interested individuals, organizations, and agencies, a policy manual for this chapter to—

"(1) assist such agencies in (A) preparing applications for program funds under this chapter, (B) meeting the applicable program requirements under this chapter, and (C) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this chapter;

"(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this chapter;

"(3) assist parents to become involved in the planning for, and implementation and evaluation of, programs and projects under this chapter; and

"(4) ensure that officers and employees of the Department of Education, including officers and employees of the Secretary and officers and employees of such Department charged with auditing programs carried on under this chapter, uniformly interpret, apply, and enforce requirements under this chapter throughout the United States.

"(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried out under this chapter, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such items are required under section 552 of title 5, United States Code to be published or made available. The manual shall include (but not be limited to)—

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"(1) a statement of the requirements applicable to the programs carried out under this chapter, including such requirements contained in this chapter, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

"(2) an explanation of the purpose of each requirement and its interrelationship with other applicable requirements;

"(3) a statement of the procedures to be followed by the Secretary with respect to proper and efficient performance of administrative responsibilities;

"(4) summaries of (A) advisory opinions interpreting and applying applicable requirements, and (B) final audit determinations relevant to programs under this chapter, including examples of actual applications of the legal requirements of applicable statutes and regulations;

"(5) model forms and instructions developed by the Secretary for use by State and local educational agencies, at their discretion, including, but not limited to, application forms, application review checklists, and instruments for monitoring programs under this chapter;

"(6) summaries of appropriate court decisions concerning programs under this chapter; and

"(7) model forms, policies, and procedures developed by State educational agencies.

"(c) RESPONSE TO INQUIRIES.—The Secretary shall respond with written guidance not more than 90 days after any written request (return receipt requested) from a State or local educational agency regarding a policy, question, or interpretation under this chapter. In the case of a request from a local educational agency, such agency must first have addressed its request to the State educational agency.

"(d) TECHNICAL ASSISTANCE.—From funds available to the Secretary for studies, evaluations, and technical assistance, the Secretary shall continue, establish, and expand technical assistance centers to provide assistance to State and local educational agencies with respect to programs under this chapter. In providing such assistance, centers shall place particular emphasis on information relating to program improvement, parental involvement, instruc-

tion, testing and evaluation, and curriculum under this chapter. Such centers shall be accessible through electronic means.

"(e) FEDERAL DISSEMINATION OF EXEMPLARY PROGRAMS.—To the extent possible, the Secretary shall provide information to State and local educational agencies regarding opportunities for dissemination of exemplary programs under this chapter through the National Diffusion Network. The Secretary shall emphasize programs which are exemplary in their implementation of the parent involvement provisions of section 1016. The Secretary shall coordinate Federal exemplary project identification activities with the National Diffusion Network.

"(f) FEDERAL REVIEW OF STATE AND LOCAL ADMINISTRATION.—The Secretary shall provide for a review of State and local administration of programs under this chapter. In addition to such other areas as the Secretary may consider appropriate, the review shall consider State policies, guidance materials, monitoring and enforcement activities, and the detection and resolution of problems of local noncompliance.

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"SEC. 1437. AUTHORIZATION OF APPROPRIATIONS FOR EVALUATION AND TECHNICAL ASSISTANCE. 20 USC 2837.

"There are authorized to be appropriated for the purposes of sections 1435 and 1436 for other Federal evaluation, technical assistance, and research activities related to this chapter, and authorized studies under this chapter, $4,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"SEC. 1438. APPLICATION OF GENERAL EDUCATION PROVISIONS ACT. 20 USC 2838.

"(a) GENERAL RULE.—Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this chapter.

"(b) SUPERCESSION RULE.—The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this chapter with respect to the programs authorized by this subtitle:

"(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 1431 of this chapter. 20 USC 1221e-3.

"(2) Section 426(a) of such Act is superseded by section 1437 of this chapter. 20 USC 1231c.

"(3) Section 427 of such Act is superseded by section 1016 of this chapter. 20 USC 1231d.

"(4) Section 430 of such Act is superseded by sections 1012, 1056, 1104(b), 1125, 1202(a), and 1224 of this chapter. 20 USC 1231g.

"(5) Section 455 of such Act is superseded by section 1433 of this chapter. 20 USC 1234d.

"(6) Section 458 of such Act is superseded by section 1434 of this chapter with respect to judicial review of withholding of payments. 20 USC 1234g

"(c) EXCLUSION RULE.—Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to the programs authorized by this chapter and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this chapter.

"SEC. 1439. NATIONAL COMMISSION ON MIGRANT EDUCATION. 20 USC 2839.

"(a) ESTABLISHMENT.—There is established, as an independent agency within the executive branch, a National Commission on Migrant Education (referred to in this section as the 'Commission').

"(b) MEMBERSHIP.—

"(1) The Commission shall be composed of 12 members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including 2 Members of the House, 1 from each political party. Four of the members shall be appointed by the President pro

tempore of the Senate, including 2 Members of the Senate, 1 from each political party.

"(2) The chairman shall be designated by the President from among the members appointed by the President. If the President has not appointed 4 members of the Commission and designated a chairman within 60 days of the enactment of this
102 STAT. 194 Act, the members of the Commission appointed by the Speaker of the House and the President pro tempore of the Senate shall elect a chairman who shall continue to serve for the duration of the Commission.

"(3) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

"(c) STUDY.—The Commission shall make a study of the following issues:

"(1) What are the demographics of the children of migratory workers today compared with 10 years ago and how are the demographics expected to change over the next decade.

"(2) What are the individual roles of the Federal, State, and private sectors in migrant affairs; how has each sector enhanced migrant educational opportunities, including entry into all types of postsecondary education programs; and should Federal programs include incentives for private and State participation.

"(3) What is the number of unserved or underserved migrant students who are eligible for the programs under this chapter nationwide and on a State-by-State basis.

"(4) How can migrant education, migrant health, migrant Head Start, Job Training Partnership programs serving migrants, HEP/CAMP, and adult literacy programs be integrated and coordinated at both the Federal and State levels.

"(5) How many migrant students are identified as potential drop-outs; how might this issue be addressed at the national policy level; and what effect does the migrant mother have on her children's performance.

"(6) How do the migrant programs under this chapter vary from State to State; how do their administrative costs vary; how do parent involvement and services vary.

"(7) What role has the Migrant Student Record Transfer System performed in assisting the migrant population; to what degree is it utilized for enhancing the education program at the local level and by the classroom teacher; is it cost effective; and how well would such a system adapt to other mobile populations like those in the inner cities or those in the Department of Defense overseas schools.

"(8) How many prekindergarten programs are available to migratory children; what services are they provided; what is the degree of parent involvement with these programs; what is a typical profile of a student in such a program.

"(9) How well are migrant handicapped and gifted and talented students identified and served; and what improvements might be made in this area.

"(10) How many of the students being served are identified as 'currently migrant' and how many are 'formerly migrant'; what differences are there in their needs; and how do services provided differ between those of 'currently migrant' and those of 'formerly migrant'.

"(11) How does interstate and intrastate coordination occur at the State and local levels.

"(12) Is there a need to establish a National Center for Migrant Affairs and what are the options for funding such a Center.

"(d) REPORTS.—

"(1) The Commission shall prepare and submit reports and recommendations to the President and to the appropriate
102 STAT. 195 committees of the Congress on the studies required to be conducted under this section. The reports for the studies required shall be submitted as soon as practicable.

"(2) Any recommendations and reports submitted under this paragraph which contemplate changes in Federal legislation shall include draft legislation to accomplish the recommendations.

"(e) SPECIAL STUDY ON THE MIGRANT STUDENT RECORDS TRANSFER SYSTEM.—(1) The Commission shall conduct a study of the function and the effectiveness of the Migrant Student Records Transfer System.

"(2) The Commission shall prepare and submit to the Secretary of Education and to the Congress, not later than 2 years after the first meeting of the Commission, a report on the study required by paragraph (1). Reports.

"(f) COMPENSATION.—

"(1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) Members of the Commission who are not officers or full-time employees of the United States may each receive $150 per diem when engaged in the actual performance of duties vested in the Commission. In addition, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(f) STAFF.—Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS–18 of the General Schedule.

"(g) ADMINISTRATION.—

"(1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

"(2) In carrying out its duties under this section, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

"(3) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

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"(4) For the purpose of securing the necessary data and information, the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies. For such purpose, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code. Contracts

"(5) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this section.

"(6) The Commission is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

Grants. Gifts and property.

"(7) The Commission shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or the donor's representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

"(8) Six members of the Commission shall constitute a quorum, but a lesser number of 2 or more may conduct hearings.

"(h) TERMINATION.—The Commission shall terminate 3 years after the date of its first meeting.

Effective date.

"(i) AUTHORIZATION OF APPROPRIATIONS.—Effective October 1, 1988, there is authorized to be appropriated $2,000,000 to carry out the provisions of this section, which shall remain available until expended or until the termination of the Commission, whichever occurs first.

"Subpart 2—State Administration

20 USC 2851.

"SEC. 1451. STATE REGULATIONS.

"(a) IN GENERAL.—(1) Except as provided in paragraph (2), nothing in this chapter may be interpreted to preempt, prohibit, or encourage State regulations issued pursuant to State law which are not inconsistent with the provisions of this chapter, regulations promulgated under this chapter, or other applicable Federal statutes and regulations.

"(2) State rules or policies may not limit local school districts' decisions regarding the grade levels to be served; the basic skills areas (such as reading, mathematics, or language arts) to be addressed; instructional settings, materials or teaching techniques to be used; instructional staff to be employed (as long as such staff meet State certification and licensing requirements for education personnel); or other essential support services (such as counseling and other pupil personnel services) to be provided as part of the programs authorized under this chapter.

"(3) Nothing in this subsection may be construed to inhibit the State educational agency's responsibility to work jointly with local educational agencies and other State agencies receiving funds under this chapter in program improvement activities pursuant to section 1021 where the State may suggest various activities and approaches as it works with such agencies to develop program improvement plans.

102 STAT. 197

"(b) REVIEW BY COMMITTEE OF PRACTITIONERS.—Before publication of any proposed or final State rule or regulation pursuant to this chapter, each such rule shall be reviewed by a State committee of practitioners which shall include administrators, teachers, parents, and members of local boards of education, and on which a majority of the members shall be local educational agency representatives. In an emergency situation where such regulation must be issued within a very limited time to assist local educational agencies with the operation of the program, the State educational agency may issue a regulation without such prior consultation, but shall immediately thereafter convene a State committee of practitioners to review the emergency regulation prior to issuance in final form.

"(c) IDENTIFICATION AS STATE REQUIREMENT.—The imposition of any State rule or policy relating to the administration and operation of programs funded by this chapter (including those based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

"SEC. 1452. RECORDS AND INFORMATION. 20 USC 2852.

"Each State educational agency shall keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter).

"SEC. 1453. ASSIGNMENT OF PERSONNEL. 20 USC 2853.

"(a) LIMITATIONS.—Public school personnel paid entirely by funds made available under this chapter may be assigned limited supervisory duties which are assigned to similarly situated personnel who are not paid with such funds, and such duties need not be limited to classroom instruction or to the benefit of children participating in programs or projects funded under this chapter. The time spent by public school personnel on duties described in the preceding sentence may not exceed either—

"(1) the same proportion of total work time as prevails with respect to similarly situated personnel at the same school site, or

"(2) one period per day,

whichever is less.

"(b) USE IN STATE PROGRAMS.—If a State carries out a program as defined under section 1018(d), the State may use funds under this chapter to pay salaries of personnel assigned to both the State program and the program under this chapter for administration, training, and technical assistance, if the State educational agency maintains time distribution records reflecting the actual amount of time spent by each such employee signed by that employee's supervisor, and costs are charged on a prorated basis to both programs. Wages.

"SEC. 1454. PROHIBITION REGARDING STATE AID. 20 USC 2854.

"No State shall take into consideration payments under this chapter in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

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"Subpart 3—Rural Educational Opportunities

"SEC. 1456. PROGRAM AUTHORIZED. 20 USC 2861.

"(a) GENERAL AUTHORITY.—The Secretary shall make grants to, or enter into contracts with, institutions of higher education, private nonprofit agencies and organizations, regional educational laboratories, technical assistance centers established pursuant to section 1436(d), public agencies, State education agencies, or combinations of such agencies or institutions within particular regions of the United States, to pay all or part of the cost of operating at least 10 rural assistance programs. The Secretary may not make a grant to, or enter into a contract with, any agency, institution, organization, or combination thereof under the preceding sentence unless such agency, institution, organization, or combination thereof has extensive experience providing educational assistance to State and local educational agencies. Grants. Contracts.

"(b) FUNCTIONS OF REGIONAL RURAL ASSISTANCE PROGRAMS.—Each regional rural assistance program established under subsection (a) shall provide technical assistance, consultation, training, and such other assistance as will assist State educational agencies and local educational agencies in the region to improve the quality of the education provided to educationally disadvantaged children participating in programs under this chapter who reside in rural areas or attend small schools. Each such program shall give special consideration to, and report on, problems related to districts with declining enrollments and ways in which districts can combine management to provide effective programs. Reports.

20 USC 2862.

"SEC. 1457. APPLICATION PRIORITY REQUIREMENTS.

"(a) In carrying out this subpart, the Secretary shall give priority to applicants which describe assistance to school districts in local educational agencies in rural areas—

"(1) with the highest concentrations of children from low-income families;

"(2) that have a significant number or percentage of schools serving children from low-income families; and

"(3) in which there are a significant number of schools in which evaluations indicate lack of substantial progress toward meeting desired outcomes, no improvement, or a decline in aggregate performance by the children participating in programs under this chapter.

"(b) Applicants shall consult with State educational agencies and local educational agencies in the application process.

20 USC 2863.

"SEC. 1458. COORDINATION, DISSEMINATION, AND REPORT.

"(a) COORDINATION.—Each program established under this subpart shall—

"(1) coordinate its activities with technical assistance centers established under section 1436(d),

"(2) coordinate its activities with the activities of local educational agencies and State educational agencies under section 1021, and

"(3) assist in identifying successful programs and practices for dissemination through existing dissemination networks and efforts.

Rural areas.

"(b) DISSEMINATION AND REPORT.—(1) Each rural assistance program shall be accessible through electronic means.

102 STAT. 199

"(2) Regional rural assistance programs shall submit a report to the Secretary every 2 years containing such reasonable information about its activities as the Secretary may request, but including at a minimum information on efforts to provide effective services under this chapter in rural school districts facing declining enrollments, with particular attention to issues inherent in consolidating, jointly administering, or otherwise combining the resources of 2 or more districts.

20 USC 2864.

"SEC. 1459. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"Subpart 4—Studies

20 USC 2881.

"SEC. 1461. REPORT ON STATE AND LOCAL EVALUATIONS.

"The Secretary shall submit a comprehensive and detailed report concerning State and local evaluation results based on data collected under sections 1019, 1107(a), 1202(a)(6), and 1242(d) to the appropriate committees of the Congress on a biennial basis.

20 USC 2882.

"SEC. 1462. NATIONAL STUDY ON EFFECT OF PROGRAMS ON CHILDREN.

Contracts.

"(a) NATIONAL LONGITUDINAL STUDY.—The Secretary shall contract with a qualified organization or agency to conduct a national longitudinal study of eligible children participating in programs under this chapter. The study shall assess the impact of participation by such children in chapter 1 programs until they are 18 years of age. The study shall compare educational achievement of those children with significant participation in chapter 1 programs and comparable children who did not receive chapter 1 services. Such study shall consider the correlations between participation in programs under this chapter and academic achievement, delinquency rates, truancy, school dropout rates, employment and earnings, and enrollment in postsecondary education. The study shall be conducted throughout the country in urban, rural, and suburban areas

Rural areas.
Urban areas.
Suburban areas.

and shall be of sufficient size and scope to assess and evaluate the effect of the program in all regions of the Nation.

"(b) FOLLOW-UP.—The agency or organization with which the Secretary has entered a contract under subsection (a) shall conduct a follow-up of the initial survey which shall include a periodic update on the participation and achievement of a representative group of children who participated in the initial study. Such follow-up shall evaluate the effects of participation until such children are 25 years of age.

"(c) REPORT.—A final report summarizing the findings of the study shall be submitted to the appropriate committees of the Congress not later than January 1, 1997; an interim report shall be so submitted not later than January 1, 1993.

"SEC. 1463. AUTHORIZATION OF APPROPRIATIONS. 20 USC 2883.

"There are authorized to be appropriated $4,000,000 for the fiscal year 1989, $4,200,000 for the fiscal year 1990, $4,400,000 for the fiscal year 1991, $4,700,000 for the fiscal year 1992, and $5,000,000 for the fiscal year 1993 for carrying out sections 1461 and 1462.

102 STAT. 200

"Subpart 5—Definitions

"SEC. 1471. DEFINITIONS. 20 USC 2891.

"Except as otherwise provided, for purposes of this Act:

"(1) The term 'average daily attendance' means attendance determined in accordance with State law, except that notwithstanding any other provision of this chapter, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this chapter the attendance of such child at such school shall be held and considered (A) to be in attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (B) not to be in attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

"(2) The term 'average per pupil expenditure' means in the case of a State or the United States, the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies in the State, or in the United States (which for the purposes of this subsection means the 50 States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(3) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

"(4) The term 'construction' includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

"(5) The term 'county' means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

"(6) The term 'current expenditures' means expenditures for free public education, including expenditures for administra-

tion, instruction, attendance, and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under this chapter, chapter 2 of this title, or chapter 1 or 2 of the Education Consolidation and Improvement Act of 1981.

102 STAT. 201

"(7) The term 'effective schools programs' means school-based programs that may encompass preschool through secondary school levels and that have the objective of (A) promoting school-level planning, instructional improvement, and staff development, (B) increasing the academic achievement levels of all children and, particularly, educationally deprived children, and (C) achieving as ongoing conditions in the school the following factors identified through effective school research as distinguishing effective from ineffective schools—

"(i) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving;

"(ii) emphasis on the acquisition of basic and higher order skills;

"(iii) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

"(iv) a climate of expectations that all children can learn under appropriate conditions; and

"(v) continuous assessment of students and programs to evaluate the effects of instruction.

"(8) The term 'elementary school' means a day or residential school which provides elementary education, as determined under State law.

"(9) The term 'equipment' includes machinery, utilities, and building equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

"(10) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(11) The term 'free public education' means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade 12.

"(12) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(13) The term 'more advanced skills' means skills including reasoning, analysis, interpretation, problem-solving, and decisionmaking as they relate to the particular subjects in which instruction is provided under programs supported by this chapter.

"(14) The term 'parent' includes a legal guardian or other person standing in loco parentis. 102 STAT. 202

"(15) The term 'parent advisory council' means a body composed primarily of members who are parents of children served by the programs or projects assisted under this chapter and who are elected by such parents, in order to advise the State or local educational agency in the planning, implementation, and evaluation of programs under this chapter.

"(16) The term 'project area' means a school attendance area having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a program or project assisted under this chapter.

"(17) The terms 'pupil services personnel' and 'pupil services' mean school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services as part of a comprehensive program to meet student needs, and the services provided by such individuals.

"(18) The term 'school attendance area' means in relation to a particular school, the geographical area in which the children who are normally served by that school reside.

"(19) The term 'school facilities' means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

"(20) The term 'Secretary' means the United States Secretary of Education.

"(21) The term 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"(22) The term 'State' means a State, the Commonwealth of Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(23) The term 'State educational agency' means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

"Subpart 6—Miscellaneous Provisions

"SEC. 1491. TRANSITION PROVISIONS. 20 USC 2901.

"(a) REGULATIONS.—All orders, determinations, rules, regulations, permits, grants, and contracts, which have been issued by the Secretary under chapter 1 of the Education Consolidation and Improvement Act of 1981 and title I of this Act (as in effect on the date before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988), or which are issued under such Acts on or before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Grants. Contracts. 102 STAT. 203

"(b) EFFECT ON PENDING PROCEEDINGS.—The provisions of this chapter shall not affect administrative or judicial proceedings pending on the effective date of this section under chapter 1 of the Education Consolidation and Improvement Act of 1981 or this title.

"(c) TRANSITION.—With respect to the period beginning on July 1, 1988, and ending June 30, 1989, no recipient of funds under this chapter, or chapter 2 of this title, or under chapter 1 or 2 of the Education Consolidation and Improvement Act of 1981 shall be held Effective date. Termination date.

to have expended such funds in violation of the requirements of this Act or of such Act if such funds are expended either in accordance with this Act or such Act.

"CHAPTER 2—FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL IMPROVEMENT

20 USC 2911.

"SEC. 1501. FINDINGS AND STATEMENT OF PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) chapter 2 of the Education Consolidation and Improvement Act of 1981 has been successful in achieving the goals of increasing local flexibility, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary educational programs;

"(2) State and local governments have placed a new focus on education;

"(3) school effectiveness can be increased through effective schools programs to improve student achievement, student behavior, teaching, learning, and school management; and

"(4) teachers make a significant and positive contribution to the education of our Nation's students, and local educational agencies are encouraged to recognize this contribution.

"(b) STATEMENT OF PURPOSE.—It is the purpose of programs under this chapter—

"(1) to provide the initial funding to enable State and local educational agencies to implement promising educational programs that can be supported by State and local sources of funding after such programs are demonstrated to be effective;

"(2) to provide a continuing source of innovation, educational improvement, and support for library and instructional materials;

"(3) to meet the special educational needs of at risk and high cost students, as described in section 1531(b);

"(4) to enhance the quality of teaching and learning through initiating and expanding effective schools programs; and

"(5) to allow State and local educational agencies to meet their educational needs and priorities for targeted assistance described in section 1531.

"(c) STATE AND LOCAL RESPONSIBILITY.—The basic responsibility for the administration of funds made available under this chapter is in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this chapter will be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because they have the most direct contact with students and are most directly responsible to parents and because they are the most likely to be able to design programs to meet the educational needs of students in their own districts.

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20 USC 2912.

"SEC. 1502. AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE.

"(a) AUTHORIZATION.—There are authorized to be appropriated $580,000,000 for the fiscal year 1989, $610,000,000 for the fiscal year 1990, $640,000,000 for the fiscal year 1991, $672,000,000 for the fiscal year 1992, and $706,000,000 for the fiscal year 1993, to carry out the provisions of this chapter.

"(b) DURATION OF ASSISTANCE.—During the period beginning October 1, 1988, and ending September 30, 1993, the Secretary shall, in accordance with the provisions of this chapter, make payments to State educational agencies for the purpose of this chapter.

"PART A—STATE AND LOCAL PROGRAMS

"Subpart 1—General Provisions

"SEC. 1511. ALLOTMENT TO STATES. 20 USC 2921.

"(a) RESERVATIONS.—(1) From the sums appropriated to carry out this chapter in any fiscal year, the Secretary shall reserve not to exceed 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs. Territories, U.S.

"(2) The Secretary shall reserve an additional amount, not to exceed 6 percent of the sums appropriated in each fiscal year, to carry out the provisions of part B.

"(b) ALLOTMENT.—From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

"(c) DEFINITIONS.—For purposes of this section—

"(1) The term 'school-age population' means the population aged 5 through 17.

"(2) The term 'States' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1512. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES. 20 USC 2922.

"(a) DISTRIBUTION RULE.—From the sum made available each year under section 1511, the State educational agency shall distribute not less than 80 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as— Disadvantaged persons.

"(1) children living in areas with high concentrations of low-income families,

"(2) children from low-income families, and

"(3) children living in sparsely populated areas.

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"(b) CALCULATION OF ENROLLMENTS.—(1) The calculation of relative enrollments under subsection (a) shall be on the basis of the total of—

"(A) the number of children enrolled in public schools, and

"(B) the number of children enrolled in private nonprofit schools that desire that their children participate in programs or projects assisted under this chapter,

for the fiscal year preceding the fiscal year in which the determination is made. Nothing in this subsection shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this chapter.

"(2)(A) Relative enrollments under subsection (a) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of— Disadvantaged persons.

"(i) children living in areas with high concentrations of low-income families,

"(ii) children from low-income families, or

"(iii) children living in sparsely populated areas.

"(B) The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1)

and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

"(c) PAYMENT OF ALLOCATIONS.—

"(1) From the funds paid to it pursuant to section 1511 for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 1533 the amount of its allocation as determined under subsection (a).

"(2)(A) Additional funds resulting from higher per pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a), may, at the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private nonprofit schools in direct proportion to the number of children described in subsection (a) and enrolled in such schools within the local educational agency.

"(B) In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

"(C) The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

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"Subpart 2—State Programs

20 USC 2931.

"SEC. 1521. STATE USES OF FUNDS.

"(a) AUTHORIZED ACTIVITIES.—A State educational agency may use funds reserved for State use under this chapter only for—

"(1) State administration of programs under this chapter including—

"(A) supervision of the allocation of funds to local educational agencies;

"(B) planning, supervision, and processing of State funds;

"(C) monitoring and evaluation of programs and activities under this part; and

"(D) operations of the State advisory committee;

"(2) technical assistance and direct grants to local educational agencies and statewide activities which assist local educational agencies to provide targeted assistance as provided in section 1531; and

"(3) assistance to local educational agencies and statewide activities to carry out effective schools programs under subpart 4.

"(b) LIMITATIONS AND REQUIREMENTS.—

"(1) Not more than 25 percent of funds available for State programs under this part in any fiscal year may be used for State administration under subsection (a)(1).

"(2)(A) At least 20 percent of funds available for State programs under this part in any fiscal year shall be used for effective schools programs under subsection (a)(3).

"(B) If a State is spending from non-Federal sources an amount equal to twice as much as the State is required to use for the purposes of subsection (a)(3), the Secretary may waive the requirement of subparagraph (A). In deciding whether or not to grant such a waiver, the Secretary shall use the definition of effective schools contained in section 1471(18).

20 USC 2932.

"SEC. 1522. STATE APPLICATIONS.

Grants.

"(a) APPLICATION REQUIREMENTS.—Any State which desires to receive grants under this chapter shall submit to the Secretary an application which—

"(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this chapter;

"(2) provides for a process of active and continuing consultation with the State educational agency of an advisory committee, appointed by the Governor and determined by the Governor to be broadly representative of the educational interests and the general public in the State, including individuals representative of—

"(A) public and private elementary and secondary schoolchildren;

"(B) classroom teachers;

"(C) parents of elementary and secondary schoolchildren;

"(D) local boards of education;

"(E) local and regional school administrators (including principals, superintendents, and administrators of intermediate educational units);

"(F) institutions of higher education;

"(G) the State legislature;

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"(H) elementary and secondary school librarians; and

"(I) school counselors and other pupil services personnel,

to advise the State educational agency on the allocation among targeted programs in accordance with section 1531 (not to exceed 20 percent of the amount of the State's allotment) reserved for State use under section 1512(a), on the formula for the allocation of funds to local educational agencies, and on the planning, development, support, implementation, and evaluation of State programs assisted under this chapter;

"(3)(A) sets forth planned allocation of funds reserved for State use under section 1512(a) among the targeted assistance programs described in section 1531 and describes programs, projects, and activities which are designed to carry out such targeted assistance, together with the reasons for the selection of such programs, projects, and activities; and

"(B) sets forth the allocation of such funds required to implement section 1572;

"(4) describes how funds reserved under section 1521(b)(2) will be used to carry out subpart 4;

"(5) provides for timely public notice and public dissemination of the information provided pursuant to paragraphs (2) and (3);

"(6)(A) provides for an annual submission of data on the use of funds, the types of services furnished, and the students served under this chapter;

"(B) in fiscal year 1992, provides for an evaluation of the effectiveness of programs assisted under this chapter, which shall include comments of the advisory committee, and shall be made available to the public;

"(7) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter);

"(8) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this chapter, the State educational agency has not exercised and will not exercise any influence in the decisionmaking processes of local educational agencies as to the expenditures made pursuant to an application under section 1531;

"(9) provides the following information: (A) how the State will adjust its formula to comply with section 1512(b)(2), (B) how children under section 1512(b)(2)(A) are defined, (C) the basis on which a determination of the local educational agencies under section 1512(b)(2)(A) is made, and (D) the percentage of the State grant which is proposed to be allotted on an adjusted basis under section 1512; and

"(10) contains assurances that there is compliance with the specific requirements of this chapter.

"(b) PERIOD OF APPLICATION.—An application filed by the State under subsection (a) shall be for a period not to exceed 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) AUDIT RULE.—Notwithstanding section 1745 of the Omnibus Budget Reconciliation Act of 1981, local educational agencies receiving less than an average $5,000 each year under this chapter need not be audited more frequently than once every 5 years.

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"Subpart 3—Local Targeted Assistance Programs

20 USC 2941.

"SEC. 1531. TARGETED USE OF FUNDS.

"(a) GENERAL RULE.—Funds allocated for use under this chapter shall be used by State and local educational agencies for targeted assistance described in subsection (b).

"(b) TARGETED ASSISTANCE.—The targeted assistance programs referred to in subsection (a) are—

"(1) programs to meet the educational needs of students at risk of failure in school and of dropping out and students for whom providing an education entails higher than average costs;

"(2) programs for the acquisition and use of instructional and educational materials, including library books, reference materials, computer software and hardware for instructional use, and other curricular materials that would be used to improve the quality of instruction;

"(3) innovative programs designed to carry out schoolwide improvements, including the effective schools program;

"(4) programs of training and professional development to enhance the knowledge and skills of educational personnel, including teachers, librarians, school counselors and other pupil services personnel, and administrators and school board members;

"(5) programs designed to enhance personal excellence of students and student achievement, including instruction in ethics, performing and creative arts, humanities, activities in physical fitness and comprehensive health education, and participation in community service projects; and

"(6) other innovative projects which would enhance the educational program and climate of the school, including programs for gifted and talented students, technology education programs, early childhood education programs, community education and programs for youth suicide prevention.

20 USC 2942.

"SEC. 1532. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Activities authorized under this subpart may include the planning, development, or operation and expansion of programs, projects, and activities which are designed to carry out the targeted assistance described in section 1531. Such activities may include—

"(1) training of educational personnel in any of the targeted assistance programs described;

"(2) guidance and counseling services; and

"(3) any other education or related activities which the State or local educational agency determines will contribute to improving the programs described in section 1531.

Grants.
Contracts.

"(b) ADMINISTRATIVE AUTHORITY.—In order to conduct the activities authorized by this part, each State or local educational agency may use funds reserved for this part to make grants to and to enter into contracts with local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

20 USC 2943.

"SEC. 1533. LOCAL APPLICATIONS.

"(a) CONTENTS OF APPLICATION.—A local educational agency or consortia of local educational agencies may receive an allocation of funds under this chapter for any year for which an application is

submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application— 102 STAT. 209

"(1)(A) sets forth the planned allocation of funds among targeted assistance programs described in section 1531 of this chapter and describes the programs, projects, and activities designed to carry out such targeted assistance which it intends to support, together with the reasons for the selection of such programs, projects, and activities; and

"(B) sets forth the allocation of such funds required to implement section 1572;

"(2) describes how assistance under this chapter will contribute to the goals of the program of improving student achievement or improving the quality of education for students;

"(3) provides assurances of compliance with provisions of this chapter including the participation of children enrolled in private, nonprofit schools in accordance with section 1572;

"(4) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this chapter; and

"(5) provides, in the allocation of funds for the assistance authorized by this chapter, and in the design, planning, and implementation of such programs, for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this chapter (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

"(b) PERIOD OF APPLICATION.—An application filed by a local educational agency under subsection (a) shall be for a period not to exceed 3 fiscal years, may provide for the allocation of funds among programs and purposes authorized by this chapter for a period of 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—Subject to the limitations and requirements of this chapter, a local educational agency shall have complete discretion in determining how funds under this subpart shall be divided among the areas of targeted assistance of this subpart. In exercising such discretion, a local educational agency shall ensure that expenditures under this subpart carry out the purposes of this chapter and are intended to meet the educational needs within the schools of that local educational agency.

"Subpart 4—Effective Schools Programs

"SEC. 1541. ESTABLISHMENT. 20 USC 2951.

"Funds shall be available under this chapter in accordance with sections 1521 and 1531 to—

"(1) plan, implement, support, evaluate, revise, and strengthen effective schools programs; 102 STAT. 210

"(2) plan and conduct training and other professional development activities for teachers, administrators and other education personnel on the implementation of effective schools programs;

"(3) provide technical assistance and promote State and local educational agency awareness of effective schools research, model programs, and implementation;

"(4) develop and implement systems to evaluate and analyze effective schools programs;

"(5) improve parent and community involvement and participation as part of an ongoing effective schools program;

"(6) support model and demonstration programs related to effective schools programs; and

"(7) develop and disseminate educational materials related to effective schools programs.

20 USC 2952.

"SEC. 1542. EFFECTIVE SCHOOLS.

"For the purposes of this chapter the term 'effective schools programs' means school-based programs that may encompass preschool through secondary school levels and that have the objectives of (1) promoting school-level planning, instructional improvement, and staff development, (2) increasing the academic achievement levels of all children and particularly educationally deprived children, and (3) achieving as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

"(A) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving;

"(B) emphasis on the acquisition of basic and higher order skills;

"(C) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

"(D) a climate of expectation that virtually all children can learn under appropriate conditions; and

"(E) continuous assessment of students and programs to evaluate the effects of instruction.

"PART B—NATIONAL PROGRAMS AND ACTIVITIES

20 USC 2961.

"SEC. 1561. GENERAL AUTHORITY.

"(a) AUTHORIZATION.—From funds reserved under section 1511(a)(2), the Secretary is authorized to carry out the programs and activities under this part.

"(b) PRIORITY FUNDING.—Subject to the availability of funds for any fiscal year for this part, the Secretary shall make available—

"(1) not less than $11,200,000 for National Diffusion Network activities under section 1562;

"(2) not less than $8,200,000 for the Inexpensive Book Distribution program under section 1563;

"(3) not less than $3,500,000 for the Arts in Education program under section 1564;

"(4) not less than $3,200,000 for the law-related education program under section 1565; and

"(5) not more than $1,500,000 for the Blue Ribbon Schools program under section 1566.

102 STAT. 211

20 USC 2962.

"SEC. 1562. NATIONAL DIFFUSION NETWORK ACTIVITIES.

"(a) PURPOSES.—The National Diffusion Network shall be a national program that recognizes and furthers excellence in education by—

"(1) promoting the awareness and implementation of exemplary educational programs, products, and practices to interested elementary, secondary, and postsecondary institutions throughout the Nation; and

"(2) promoting the utilization of the knowledge, talents, and services of local staff associated with various educational excellence recognition efforts.

The National Diffusion Network shall be designed to improve the quality of education through the implementation of promising and validated innovations and improvements in educational programs, products, and practices, and through the provision of training, consultation, and related assistance services.

"(b) RESPONSIBILITIES OF SECRETARY.—In carrying out the activities under this section, which shall be limited to activities directly related to the National Diffusion Network, the Secretary shall—

"(1) acquaint persons responsible for the operation of elementary, secondary, and postsecondary schools with information about exemplary educational programs, products, practices, and services;

"(2) assist such persons in implementing programs, products, and practices which such persons determine may improve the quality of education in the schools for which they are responsible, by providing materials, initial training, and ongoing implementation assistance;

"(3) ensure that all such activities, programs, products, and practices are subjected to rigorous evaluation with respect to their effectiveness and their capacity for implementation;

"(4) provide program development assistance toward the recognition, dissemination, and implementation of promising practices that hold the potential for answering critical needs and that have achieved credibility because of their effective use in schools; and

"(5) ensure that a substantial percentage of the innovations disseminated represent significant changes in practice for schools and teachers.

In carrying out paragraph (3) of this section, the Secretary shall conduct a single external review by a program effectiveness panel that focuses exclusively on whether the program is efficacious and transferable to other educational settings. Any activity, program, product, or practice which meets the criteria of the preceding sentence may then be disseminated through the National Diffusion Network, and each eligible recipient (as described in subsection (c)) may apply for assistance in accordance with subsection (d).

"(c) ELIGIBLE RECIPIENTS OF GRANTS AND CONTRACTS.—For the purpose of carrying out the activities under this section, the Secretary is authorized to make grants to, and contracts with, local educational agencies, State educational agencies, institutions of higher education, and other public and private nonprofit educational institutions and organizations.

"(d) FUNDING CRITERIA.—(1) For the purpose of determining which projects to fund under this section, the Secretary shall assess the extent to which the projects meet the following criteria:

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"(A) The applicant has a workable plan for disseminating its program.

"(B) The program's approach is innovative.

"(C) The program is accurate and up-to-date.

"(2) Each applicant for assistance under this section shall submit statements and supporting materials as required by the Secretary but shall not be required to submit more than a representative sample of the program materials of the applicant.

"(3) In establishing regulations under this section, including the specific evaluation criteria under paragraph (1), the Secretary shall consult with interested parties, including participants in the National Diffusion Network.

"(4) For fiscal year 1988 only, the Secretary shall assess applications for financial assistance under this section on the basis of the application or reapplication proposals.

Contracts.
20 USC 2963.

"SEC. 1563. INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION.

Reading is Fundamental.

"(a) AUTHORIZATION.—The Secretary is authorized (1) to enter into a contract with Reading is Fundamental (RIF) (hereinafter in this section referred to as the 'contractor'), a private nonprofit organization which has as its primary purpose the motivation of children to learn to read, to support and promote the establishment of reading motivation programs which include the distribution of inexpensive books to students, and (2) to pay the Federal share of the cost of such programs.

"(b) REQUIREMENTS OF CONTRACT.—The contract shall provide that—

"(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as 'subcontractors') under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift or loan, to preschool and elementary and secondary school children;

"(2) funds made available by the Secretary to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1); and

"(3) the contractor will meet such other conditions and standards as the Secretary determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide such technical assistance as may be necessary to carry out the purposes of this section.

"(c) RESTRICTION ON PAYMENTS.—The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(d) DEFINITIONS.—For purposes of this section the term 'Federal share' means—

102 STAT. 213

"(1) with respect to the cost of books purchased by a subcontractor for a program in a locality for distribution of such books to children in that locality, 75 percent of the cost to such subcontractor; or

"(2) with respect to the cost of books purchased by a subcontractor for a program of distribution of books to children of migrant or seasonal farmworkers, 100 percent of the cost to such subcontractor for such books.

20 USC 2964.

"SEC. 1564. ARTS IN EDUCATION PROGRAM.

Grants.
Contracts.

"The Secretary shall carry out a program of grants and contracts to encourage and assist State and local educational agencies and other public and private agencies, organizations, and institutions to establish and conduct programs in which the arts are an integral part of elementary and secondary school curricula such as—

"(1) programs with public and private cultural organizations, agencies, and institutions, including museums, libraries, and theaters;

"(2) a program to develop and implement model projects and programs in the performing arts for children and youth, through arrangements made with the John F. Kennedy Center for the Performing Arts; and

Handicapped persons.

"(3) a program for the identification, development and implementation of model programs and projects in the arts for individuals with handicaps through arrangements with the organization Very Special Arts.

20 USC 2965.

"SEC. 1565. LAW-RELATED EDUCATION PROGRAM.

Grants.
Contracts.

"(a) AUTHORIZATION.—The Secretary shall carry out a program of grants and contracts to encourage State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to provide law-related education programs.

"(b) DEFINITION.—For the purpose of this section, the term 'law-related education' means education to equip nonlawyers with knowledge and skills pertaining to the law, the legal process, the legal system, and the fundamental principles and values on which they are based.

"(c) AUTHORIZED ACTIVITIES.—Funds made available for the purposes of this section may be available for activities such as—

"(1) awareness activities to provide educators, law-related personnel, and the public with an understanding of what law-related education is;

"(2) support for new and ongoing programs in elementary and secondary schools, adult education, community organizations, and institutions of higher education, to provide law-related education, to develop materials and methods, to conduct pilot and demonstration projects, and to disseminate the products of such activities;

"(3) clearinghouse and technical assistance, to collect and provide information and assistance to institutions, groups, agencies, organizations, and individuals to aid in establishing, improving, and expanding law-related education activities;

"(4) training for law-related personnel in the substance and practice of law-related education, including preservice and in-service seminars, workshops, institutes, and courses;

"(5) research and evaluation to study and improve the effectiveness of materials and methods in law-related education; Research and development.

"(6) involvement of law-related organizations, agencies, and personnel, such as lawyers, law schools, law students, and law enforcement personnel in the provision of law-related education activities; and 102 STAT. 214

"(7) youth internships for outside-the-classroom experiences with the law and the legal system.

"SEC. 1566. BLUE RIBBON SCHOOLS PROGRAM. 20 USC 2966.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to carry out programs to recognize elementary and secondary schools or programs which have established standards of excellence and which have demonstrated a high level of quality. Such programs shall be designated as 'Blue Ribbon Schools'. In selecting schools and programs to be recognized, the Secretary shall competitively select public and private schools or programs within local educational agencies in the States, schools operated for Indian children by the Department of the Interior, and schools operated by the Department of Defense for dependents of Department of Defense personnel.

"(b) SELECTION PROCESS.—(1) The Secretary shall designate, each fiscal year, several categories for a Blue Ribbon Schools program. Such categories may include, but shall not be limited to, outstanding elementary schools, outstanding secondary schools, outstanding mathematics and science programs, or outstanding reading programs.

"(2) Within each category, the Secretary shall determine the criteria and procedures for selection. Selection for such awards shall be based solely on merit. Schools or programs selected for awards under this section shall not be required to be representative of the States.

"(c) ADMINISTRATIVE PROVISIONS.—(1) The Secretary shall carry out the provisions of this section including the establishment of the selection procedures, after consultation with appropriate outside parties.

"(2) No award may be made under this section unless the local educational agency submits an application to the Secretary at such time, in such manner, and containing such information, as the Secretary may reasonably require.

"(3) For the purposes of this section, the term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"PART C—GENERAL ADMINISTRATIVE PROVISIONS

"SEC. 1571. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY. 20 USC 2971.

"(a) MAINTENANCE OF EFFORT.—(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this chapter for any fiscal year if the Secretary finds that

either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The Secretary shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

102 STAT. 215

"(3) The Secretary may waive, for 1 fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this chapter, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

20 USC 2972.

"SEC. 1572. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) PARTICIPATION ON EQUITABLE BASIS.—(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this chapter or which serves the area in which a program or project assisted under this chapter is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this chapter.

Contracts.

"(2) If no program or project is carried out under subsection (a)(1) of this section in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this chapter.

"(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this chapter by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

"(b) EQUAL EXPENDITURES.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this chapter for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual

children and other factors which relate to such expenditures, and when funds available to a local educational agency under this chapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects. 102 STAT. 216

"(c) FUNDS.—(1) The control of funds provided under this chapter, and title to materials, equipment, and property repaired, remodeled, or constructed therewith, shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer such funds and property.

"(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this chapter shall not be commingled with State or local funds. Contracts.

"(d) STATE PROHIBITION WAIVER.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e) WAIVER AND PROVISION OF SERVICES.—(1) If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(f) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

"(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this chapter.

"(h) REVIEW.—(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken. Courts, U.S. 102 STAT. 217

"(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the Records.

record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

"(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under chapter 2 of the Education Consolidation and Improvement Act of 1981 shall to the extent consistent with the purposes of this chapter apply to programs under this chapter.

20 USC 2973.

"SEC. 1573. EVALUATIONS AND REPORTING.

"(a) LOCAL EDUCATIONAL AGENCIES.—A local educational agency which receives financial assistance under this chapter shall report annually to the State educational agency on the use of funds under section 1531. Such reporting shall be carried out in a manner which minimizes the amount of paperwork required while providing the State educational agency with the necessary information under the preceding sentence. Such report shall be made available to the public.

"(b) STATE EDUCATIONAL AGENCIES.—A State educational agency which receives financial assistance under this chapter shall evaluate the effectiveness of State and local programs under this chapter in accordance with section 1522(a)(6)(B). That evaluation shall be submitted for review and comment by the State advisory committee and shall be made available to the public. The State educational agency shall submit to the Secretary a copy of the evaluation and a summary of the reports under subsection (a).

"(c) REPORTS.—(1) The Secretary, in consultation with State and local educational agency representatives, shall develop a model system which State educational agencies may use for data collection and reporting under this chapter.

"(2)(A) The Secretary shall submit annually a report to the Congress for the use of funds, the types of services furnished, and the students served under this chapter.

"(B) The Secretary shall not later than October 1, 1992, submit a report to the Congress summarizing evaluations under subsection (b) in order to provide a national overview of the uses of funds and effectiveness of programs under this chapter.

102 STAT. 218

20 USC 2974.

"SEC. 1574. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this chapter, particularly with respect to implementation of the programs and activities under subpart 4.

Regulations.

"(b) RULEMAKING.—The Secretary shall issue regulations under this chapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this chapter.

"(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this chapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"(d) SPECIAL RULE.—The provisions of sections 1433 and 1434 shall apply to the programs authorized by this chapter.

"SEC. 1575. APPLICATION OF GENERAL EDUCATION PROVISIONS ACT. 20 USC 2975.

"(a) GENERAL RULE.—Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this chapter.

"(b) APPLICABILITY.—The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this chapter with respect to the programs authorized by this chapter:

"(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 1574(b) of this chapter. 20 USC 1221e-3.

"(2) Section 426(a) of such Act is superseded by section 1574(a) of this chapter. 20 USC 1231c.

"(3) Section 427 of such Act is superseded by section 1534(a)(5) of this chapter. 20 USC 1231d.

"(4) Section 430 of such Act is superseded by sections 1522 and 1533 of this chapter. 20 USC 1231g.

"(c) SPECIAL RULE.—Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, may not apply to the programs authorized by this chapter and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this chapter.

"SEC. 1576. TRANSITION PROVISIONS. 20 USC 2976.

"(a) REGULATIONS.—All orders, determinations, rules, regulations, permits, grants, and contracts, which have been issued under chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981 (as in effect on the date before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988), or which are issued under such Act on or before the effective date of this Act shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law other than this Act. Grants. Contracts.

"(b) EFFECT ON PENDING PROCEEDINGS.—The provisions of this chapter shall not affect administrative or judicial proceedings pending on the effective date of this Act under chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981.

102 STAT. 219

"(c) TRANSITION.—With respect to the period beginning July 1, 1988, and ending June 30, 1989, no recipient of funds under this Act or chapter 2 of the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of this Act or of such Act if such funds are expended in accordance with this Act or such Act. Effective date. Termination date.

"TITLE II—CRITICAL SKILLS IMPROVEMENT

"PART A—DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION ACT

Dwight D. Eisenhower Mathematics and Science Education Act.

"SEC. 2001. SHORT TITLE. 20 USC 2981.

"This part may be cited as the 'Dwight D. Eisenhower Mathematics and Science Education Act'.

"SEC. 2002. STATEMENT OF PURPOSE. 20 USC 2982.

"The purpose of this part is to strengthen the economic competitiveness and national security of the United States by improving the skills of teachers and the quality of instruction in mathematics and science in the Nation's public and private elementary and secondary schools through assistance to State educational agencies, local educational agencies, and institutions of higher education.

"SEC. 2003. PROGRAM AUTHORIZED. 20 USC 2983.

"(a) GRANTS.—The Secretary is authorized to make grants to States and discretionary grants in accordance with the provisions of

this part for strengthening the skills of teachers and improving instruction in mathematics and science.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this part, $250,000,000 for fiscal year 1989 and such sums as may be necessary for each of the 4 succeeding fiscal years.

20 USC 2984.

"SEC. 2004. ALLOCATION OF FUNDS.

"(a) IN GENERAL.—(1) From the amount appropriated under section 2003(b) for any fiscal year, the Secretary shall reserve—

Territories, U.S.

"(A) not more than ½ of 1 percent for allocation among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part;

Indians.

"(B) ½ of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior consistent with the purposes of this part; and

"(C) 4 percent for section 2012.

"(2) The remainder of the amount so appropriated (after meeting the requirements of paragraph (1)) shall be allocated among the States (treating the District of Columbia and Puerto Rico as States) as follows—

"(A) ½ of such remainder shall be allocated among the States by allocating to each State an amount which bears the same ratio to such ½ of such remainder as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States; and

102 STAT. 220

"(B) ½ of such remainder shall be allocated among the States according to each State's share of allocations under chapter 1 of the Education Consolidation and Improvement Act of 1981 or part A of chapter 1 of title I of this Act, whichever program was effective for the previous fiscal year,

except that no State shall receive less than ½ of 1 percent of the amount available under this subsection in any fiscal year or less than the amount allotted to such State for fiscal year 1988 under title II of the Education for Economic Security Act.

"(3) For the purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(4) The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

"(5) The Secretary shall make payments under paragraph (1)(B) on whatever terms the Secretary determines will best carry out the purposes of this part.

"(b) REALLOTMENT OF UNUSED FUNDS.—The amount of any State's allotment under subsection (a) for any fiscal year to carry out this part which the Secretary determines will not be required for that fiscal year to carry out this part shall be available for reallotment from time to time, on such dates during that year as the Secretary may determine, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year.

20 USC 2985.

"SEC. 2005. IN-STATE APPORTIONMENT.

"(a) ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.—(1) For each fiscal year, an amount equal to 75 percent of each State's allotment under section 2004 shall be used for elementary and secondary education programs in accordance with section 2006, for

demonstration and exemplary programs under section 2006(c) and for technical assistance under section 2006(d).

"(2) Not less than 90 percent of such amount shall be distributed as follows:

"(A) The State educational agency shall distribute 50 percent of the funds available under this subsection to local educational agencies according to the relative enrollments in public and private nonprofit schools within the school districts of such agencies. Such relative enrollments may be calculated, at the option of the State educational agency, on the basis of the total number of children enrolled in public schools, and—

"(i) private nonprofit schools, or

"(ii) private nonprofit schools desiring that their children and teachers participate in programs or projects assisted under this part.

Nothing in the preceding sentence shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within their school districts in order to determine whether such schools desire that their children and teachers participate in programs or projects assisted under this part.

102 STAT. 221

"(B) The State educational agency shall distribute 50 percent of the funds available under this subsection based on the relative number of children aged 5 to 17 who—

Disadvantaged persons.

"(i) are from families below the poverty level as determined under section 1005(c)(2)(A) of this Act; and

"(ii) are from families above the poverty level as determined under section 1005(c)(2)(B) of this Act;

in the schools of the local educational agencies within the State.

"(b) HIGHER EDUCATION PROGRAMS.—For each fiscal year, 25 percent of each State's allotment under section 2004 shall be used for higher education programs in accordance with section 2007.

"SEC. 2006. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

Disadvantaged persons.
Women.
Minorities.
Handicapped persons.
20 USC 2986.

"(a) IN GENERAL.—The amount apportioned under section 2005(a)(2) from each State's allotment under this part shall be used by the State educational agency to strengthen elementary and secondary education programs in accordance with the provisions of this section.

"(b) LOCAL EDUCATIONAL AGENCIES.—(1) Each local educational agency shall use funds distributed under this part for—

"(A) the expansion and improvement of preservice training, inservice training, and retraining of teachers and other appropriate school personnel in the fields of mathematics and science, including vocational education teachers who use mathematics and science in the courses of study they teach;

"(B) recruitment or retraining of minority teachers to become mathematics and science teachers;

"(C) training in and instructional use of computers, video, and other telecommunications technologies as part of a mathematics and science program (which may include the purchase of computers or other telecommunications equipment in schools with an enrollment of 50 percent or more of students from low-income families after all other training needs have been met);

"(D) integrating higher order analytical and problem-solving skills into the mathematics and science curriculum; or

"(E) providing funds for grants projects for individual teachers within the local educational agency to undertake projects to improve their teaching ability or to improve the instructional materials used in their classrooms in mathematics and science.

"(2) Such training and instruction may be carried out through agreements with public agencies, private industry, institutions of higher education, and nonprofit organizations, including museums, libraries, educational television stations, professional science, mathematics and engineering associations, and other appropriate institutions. Agreements for funds available under section

Contracts.

2004(a)(1)(B) may be made with institutions of higher education receiving funds under the Tribally Controlled Community College Assistance Act of 1978. A local educational agency may carry out the activities authorized by this paragraph with one or more other local educational agencies within the State, or with the State educational agency, or both. Each local educational agency shall assure that programs of training, inservice training and retraining will take into account the need for greater access to and participation in mathematics and science programs and careers of students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and, especially, gifted and talented children from within such groups.

102 STAT. 222

"(3) A local educational agency for any fiscal year may apply for funds as part of a consortium with other local educational agencies, institutions of higher education, or an intermediate educational unit for the conduct of local programs. The State educational agency may assist in the formation of consortia between local educational agencies, institutions of higher education, or intermediate educational units to provide services for the teachers and students in such local educational agency at the request of such local educational agency.

"(4) Not more than 5 percent of funds available to the local educational agency for the purpose of this section for any fiscal year may be used for local administration.

"(c) DEMONSTRATION AND EXEMPLARY PROGRAMS.—Not less than 5 percent of the amount available under this section shall be used by the State educational agency for—

"(1) demonstration and exemplary programs for teacher training and retraining and inservice upgrading of teacher skills in the fields of mathematics and science;

"(2) demonstration and exemplary programs for instructional equipment and materials in such fields and necessary technical assistance;

"(3) demonstration and exemplary programs for special projects for historically underrepresented and underserved populations and for gifted and talented students; or

"(4) the dissemination of information to all local educational agencies within the State relating to the exemplary programs in the fields of mathematics and science.

In providing financial assistance for such demonstration and exemplary programs, the State educational agency shall give special consideration to special projects in mathematics and science to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited-English proficiency, and migrant students, and to programs for gifted and talented students. The programs for gifted and talented students may include assistance to magnet schools for such students.

"(d) TECHNICAL ASSISTANCE AND ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount available under this section may be used by the State educational agency—

"(1) to provide technical assistance to local educational agencies, institutions of higher education, and nonprofit organizations, including museums, libraries, and educational television stations, in the conduct of programs specified in subsection (b); and

"(2) for the costs of administration and assessment of programs assisted under this part.

20 USC 2987.

"SEC. 2007. HIGHER EDUCATION PROGRAMS.

"(a) IN GENERAL.—(1) Except as provided in paragraph (2), the amount apportioned under section 2005(b) from each State's allotment under this part shall be used by the State agency for higher education for education programs in accordance with the provisions of this section.

"(2) Funds available under section 2004(a)(1)(B) and reserved under section 2005(b) shall be used, in accordance with the provi-

sions of this section, to support programs conducted within institutions of higher education funded through the Bureau of Indian Affairs. 102 STAT. 223

"(b) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—(1)(A) Not less than 95 percent of the amount available for this section shall be used by the State agency for higher education for grants to institutions of higher education in accordance with the provisions of this subsection.

"(B) The State agency for higher education shall make funds available on a competitive basis to institutions of higher education in the State which apply for payments under this section and which demonstrate involvement of local educational agencies. The State agency for higher education shall make every effort to ensure equitable participation of private and public institutions of higher education.

Disadvantaged persons.
Women.
Minorities.
Handicapped persons.

"(2) The amount available under this subsection shall be used for—

"(A) establishing traineeship programs for new teachers who will specialize in teaching mathematics and science at the secondary school level;

"(B) retraining of secondary school teachers who specialize in disciplines other than the teaching of mathematics or science to specialize in the teaching of mathematics or science, including the provision of stipends for participation in institutes authorized under title I of the Education for Economic Security Act or any other program of the National Science Foundation; and

"(C) inservice training for elementary, secondary, and vocational school teachers and training for other appropriate school personnel to improve their teaching skills in the fields of mathematics and science, including stipends for participation in institutes authorized under title I of the Education for Economic Security Act, or any other program of the National Science Foundation.

Each institution of higher education receiving a grant under this subsection shall assure that programs of training, retraining, and inservice training will take into account the need for greater access to and participation in mathematics and science and careers by students from historically underrepresented and underserved groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and the gifted and talented, and will ensure cooperative agreements or cooperative arrangements with local educational agencies.

"(3) No institution of higher education may receive assistance under paragraphs (2)(B) and (2)(C) of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide inservice training and retraining for the elementary and secondary school teachers in the public and private schools of the school district of each such agency.

"(c) COOPERATIVE PROGRAMS.—The State agency for higher education may use funds described in subsection (b)(1)(A) for cooperative programs among institutions of higher education, local educational agencies, State educational agencies, private industry, and nonprofit organizations, including museums, libraries, educational television stations, and professional matehmatics, science, and engineering societies and associations for the development and dissemination of projects designed to improve student understanding and performance in science and mathematics. 102 STAT. 224

"(d) ASSESSMENT AND ADMINISTRATIVE COSTS.—Not to exceed 5 percent of the amount available under this section may be used by the State agency for higher education for—

"(1) the State assessment required by section 2008(c); and

"(2) the costs incurred by such agency for administration and evaluation of programs assisted under this part.

Disadvantages persons.
Women.
Minorities.
Handicapped persons.
20 USC 2988.

"SEC. 2008. STATE APPLICATION.

"(a) APPLICATION.—Each State which desires to receive a grant under this part shall file an application with the Secretary which covers a period of 3 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) designate the State educational agency for the purpose of programs described in section 2006, and the State agency for higher education for the purpose of programs described in section 2007 as the agency or agencies responsible for the administration and supervision of the programs described in section 2006 or 2007, as the case may be;

"(2) provide assurances that—

"(A) payments will be distributed by the State in accordance with the provisions of this title;

"(B) for programs described in section 2006, the provisions of section 2010 will be carried out;

"(C) the State will provide such fiscal control and funds accounting as the Secretary may require;

"(D) funds provided under this part will supplement, not supplant, State and local funds made available for activities authorized under this part;

"(E) during the 3-year period of the plan, the State will evaluate its standards for teacher preparation, licensing, certification, and endorsement for elementary and secondary mathematics and science;

"(F) the State will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and the handicapped;

"(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be considered in the distribution of funds reserved for State use; and

"(H) that the programs conducted with State funds will be assessed annually (including statistics on the number of students and teachers involved in these programs) and that the data from such assessments, as well as a summary of the local assessments required under section 2009(b)(6), will be submitted to the Secretary;

"(3) if appropriate, provide a description of how funds paid under this part will be coordinated with State and local funds and other Federal resources, particularly with respect to any program available from the National Science Foundation or the Department of Energy, or both; and

102 STAT. 225

"(4) describe procedures—

"(A) for submitting applications for programs described in sections 2006 and 2007 for distribution of payments under this part within the State, and

"(B) for approval of applications by the appropriate State agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

"(c) INFORMATIONAL REQUIREMENTS.—Each State application shall also contain the following:

"(1) A projection of the supply and demand for teachers within the State in all the mathematics and science subject areas at the elementary and secondary levels, including a consideration of the impact of changing State graduation requirements and other State reforms upon such supply.

"(2) An assessment of the current elementary and secondary curriculum needs within the State in mathematics and science.

"(d) DESCRIPTION OF ASSISTED ACTIVITIES.—Each application shall also contain the following descriptions:

"(1) How the programs under this Act will meet the teacher training and curriculum needs projected under subsections (c)(1) and (c)(2).

"(2) The specific activities that will be undertaken that involve institutions of higher education.

"(3) The specific activities that will be supported with funds reserved for State use and how those activities relate to the State's needs in mathematics and science.

"(4) The specific activities the State will support to improve access of historically underrepresented groups in mathematics and science education.

"(e) APPROVAL.—The Secretary shall expeditiously approve any State application that meets the requirements of this section.

"SEC. 2009. LOCAL APPLICATION. 20 USC 2989.

"(a) APPLICATION.—A local educational agency that desires to receive a grant under this part shall submit an application which covers a 3-year period (singly or in conjunction with other local educational agencies, institutions of higher education, or an intermediate educational unit).

"(b) CONTENTS OF APPLICATION.—A local educational agency application shall—

"(1) provide a summary assessment of—

"(A) the needs of its current teachers in mathematics and science and whether a shortage of such qualified teachers exists or will exist within 5 years after the date of the application;

"(B) the current levels of mathematics and science student achievement in the local educational agency; and

"(C) the curricular needs of the local educational agency in mathematics and science;

"(2) describe how the local educational agency plans to use funds received under this part to meet the needs described in paragraph (1)(A);

"(3) if applicable, describe how funds under this part will be coordinated with State and local and other Federal resources, especially with respect to any programs available from the National Science Foundation, or the Department of Energy, or both; 102 STAT. 226

"(4) if applicable, describe how the programs will use other resources of the community and involve public agencies, private industry, institutions of higher education, public and private nonprofit organizations (including, museums, libraries, educational television stations, professional science, mathematics, and engineering associations), and other appropriate institutions;

"(5) assure that programs will take into account the need for greater access to and participation in mathematics and science programs by students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and the handicapped; and

Disadvantaged persons.
Women.
Minorities.
Handicapped persons.

"(6) assure that the programs will be assessed, that progress made will be reported in terms of numbers of teachers and students affected, and that the results will be submitted to the State educational agency in the time and manner required.

"(c) RENEWAL OF PAYMENTS.—The State educational agency shall renew payments to local educational agencies under this section based upon a determination by the State educational agency that the local educational agency is making adequate progress toward the goals of this part. The State educational agency will not disapprove an application without notice and opportunity for a hearing.

20 USC 2990.

"SEC. 2010. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS.

"(a) PARTICIPATION OF PRIVATE SCHOOL STUDENTS.—To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this part.

"(b) PARTICIPATION OF PRIVATE SCHOOL TEACHERS.—To the extent consistent with the number of children in the State or in the school district of a local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State, or agency or institution of higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such inservice and teacher training and retraining as will assure equitable participation of such teachers in the purposes and benefits of this part.

"(c) WAIVER.—If by reason of any provision of law a State or local educational agency or institution of higher education is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers, subject to the requirements of this section.

102 STAT. 227

Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of this Act.

20 USC 2991.

"SEC. 2011. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives, shall develop procedures for State and local evaluations of the programs under this part.

"(b) SUMMARY.—The Secretary shall submit to the Congress every 2 years a summary of the State evaluations of programs under this part.

"(c) MODEL REPORTING STANDARDS.—In conjunction with State and local educational agencies and organizations of mathematics and science educators, the Secretary shall develop model reporting standards to encourage comparability of data required under sections 2008 and 2009.

Grants.
Contracts.
20 USC 2992.

"SEC. 2012. NATIONAL PROGRAMS.

"(a) AMOUNT AVAILABLE.—From 4 percent of amounts appropriated under section 2003(b), the Secretary shall make grants or enter into cooperative agreements in accordance with this section.

"(b) ELIGIBLE GRANTEES.—The Secretary shall make grants to and enter into cooperative agreements with State and local educational agencies, institutions of higher education, and public and private nonprofit organizations (including museums, libraries, educational television producers, distributors, and stations, and professional science, mathematics, and engineering societies and associations) for programs of national significance in mathematics and science instruction. The Secretary shall give special consideration in providing such assistance to local educational agencies (or consortia thereof), institutions of higher education, and public and private nonprofit organizations, providing special services to historically underserved and underrepresented populations (and especially gifted and talented children from within such populations) in the fields of mathematics and science.

"(c) PROGRAMS FOR TRAINING AND RETRAINING TEACHERS.—In awarding grants and cooperative agreements, the Secretary shall

also give special consideration to programs of such institutions and organizations (such as museums) which train and retrain teachers in methods of scientific inquiry and provide materials which aid the education of students. In awarding grants and cooperative agreements, the Secretary shall give preference to developed and currently operating programs which are disseminated throughout the region in which such an institution or organization is located.

"(d) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information concerning grants and cooperative agreements under this section to State and local educational agencies and institutions of higher education. Such dissemination of information shall include examples of exemplary national programs in mathematics and science instruction and necessary technical assistance for the establishment of similar programs.

"SEC. 2013. DEFINITIONS. 20 USC 2993.

"As used in this part:

"(1) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

102 STAT. 228

"(2) The term 'State agency for higher education' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of this title by the Governor or by State law.

"PART B—FOREIGN LANGUAGES ASSISTANCE

Foreign Language Assistance Act of 1988.

"SEC. 2101. SHORT TITLE. 20 USC 3001.

"This part may be cited as the 'Foreign Language Assistance Act of 1988'.

"SEC. 2102. FINDINGS. 20 USC 3002.

"The Congress finds that the economic and security interests of this Nation require significant improvement in the quantity and quality of foreign language instruction offered in the Nation's elementary and secondary schools, and Federal funds should be made available to assist the purpose of this part.

"SEC. 2103. PROGRAM AUTHORIZED. 20 USC 3003.

"(a) GENERAL AUTHORITY.—The Secretary shall make grants to State educational agencies whose applications are approved under subsection (b) to pay the Federal share of the cost of model programs, designed and operated by local educational agencies, providing for the commencement or improvement and expansion of foreign language study for students. Grants.

"(b) APPLICATION.—Any State educational agency desiring to receive a grant under this part shall submit an application therefor to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require. No application may be approved by the Secretary unless the application—

"(1) contains a description of model programs which—

"(A) are designed by local educational agencies,

"(B) represent a variety of alternative and innovative approaches to foreign language instruction, and

"(C) are selected on a competitive basis by the State educational agency;

"(2) provides assurances that all children aged 5 through 17 who reside within the school district of the local educational agency shall be eligible to participate in any model program funded under this section (without regard to whether such children attend schools operated by such agency);

"(3) provides assurances that the State will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources; and

"(4) provides that the local educational agency will provide standard evaluations of the proficiency of participants at appropriate intervals in the program which are reliable and valid, and provide such evaluations to the State educational agency.

"(c) FEDERAL SHARE.—(1) The Federal share for each fiscal year shall be 50 percent.

"(2) The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the project.

102 STAT. 229

"(d) PARTICIPATION OF PRIVATE SCHOOLS.—(1) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of this section. Expenditures for educational services and arrangements pursuant to this subsection for children in private schools shall be equal (taking into account the number of children to be served and the needs of such children) to expenditures for children enrolled in the public schools of the State or local educational agency.

"(2) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children from private schools as required by paragraph (1), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children which shall be subject to the requirements of this subsection. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 1017(b) of this Act.

20 USC 3004.

"SEC. 2104. ALLOTMENTS.

Territories, U.S.

"(a) GENERAL RULE.—(1) From the sums appropriated to carry out this part in any fiscal year, the Secretary shall reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs.

"(2) From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school age population of the State bears to the school age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

"(b) AVAILABILITY OF FUNDS.—The allotment of a State under subsection (a) shall be made available to the State for 2 additional years after the first fiscal year during which the State receives its allotment under this section if the Secretary determines that the funds made available to the State during the first such year were used in the manner required under the State's approved application.

20 USC 3005.

"SEC. 2105. DEFINITIONS.

"(a) GENERAL RULE.—For the purpose of this part:

"(1) The term 'foreign language instruction' means instruction in critical foreign languages as defined by the Secretary.

"(2) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(3) The term 'State agency for higher education' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or

agency designated for the purpose of this title by the Governor or by State law. 102 STAT. 230

"(b) SPECIAL RULE.—For the purpose of section 2104—

"(1) the term 'school age population' means the population aged 5 through 17; and

"(2) the term 'States' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 2106. AUTHORIZATION OF APPROPRIATIONS. 20 USC 3006.

"There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993 to carry out this part.

"PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE AND IN FOREIGN LANGUAGES

"SEC. 2201. PRESIDENTIAL AWARDS. 20 USC 3011.

"(a) GENERAL AUTHORITY.—(1) The President is authorized to make Presidential awards for teaching excellence in mathematics and science to elementary and secondary school teachers of mathematics or science who have demonstrated outstanding teaching qualifications in the field of teaching mathematics or science.

"(2) The President is authorized to make Presidential awards for teaching excellence in foreign languages to elementary and secondary school teachers of foreign languages who have demonstrated outstanding teaching qualifications in the field of teaching foreign languages.

"(b) LIMITATION.—Each year the President is authorized to make 104 awards under subsection (a)(1), and 104 awards under subsection (a)(2). In selecting elementary and secondary school teachers for the award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher from each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 2202. ADMINISTRATIVE PROVISIONS. 20 USC 3012.

"The President shall carry out the provisions of this part, including the establishment of the selection procedures, after consultation with the Secretary of Education, and other appropriate officials of Federal agencies, and representatives of professional foreign language teacher associations.

"SEC. 2203. AUTHORIZATION OF APPROPRIATIONS. 20 USC 3013.

"(a) IN GENERAL.—(1) Funds to carry out this part for any fiscal year shall be made available from amounts appropriated pursuant to annual authorizations of appropriations for the National Science Foundation for Science and Engineering Education.

"(2)(A) There are authorized to be appropriated $2,000,000 for each fiscal year to carry out the provisions of this part.

"(B) Not more than $1,000,000 are authorized to be available to carry out the provisions of paragraph (2) of section 2201(a).

"(b) AVAILABILITY.—Amounts appropriated pursuant to subsection (a) and amounts made available under subsection (a) shall be available for making awards under this part, for administrative expenses, for necessary travel by teachers selected under this part, and for special activities related to carrying out the provisions of this part. 102 STAT. 231

"TITLE III—MAGNET SCHOOLS ASSISTANCE

"SEC. 3001. AUTHORIZATION OF APPROPRIATIONS; RESERVATION. 20 USC 3021.

"(a) AUTHORIZATION.—There are authorized to be appropriated $165,000,000 for the fiscal year 1989 and such sums as may be

necessary for the fiscal years 1990 through 1993 to carry out the provisions of this title.

"(b) AVAILABILITY OF FUNDS FOR GRANTS TO AGENCIES NOT PREVIOUSLY ASSISTED.—(1) In any fiscal year in which the amount appropriated pursuant to section 3001 exceeds $75,000,000, the Secretary shall, with respect to such excess amount, give priority to grants to local educational agencies which—

"(A) meet the requirements of section 3002; and

"(B) have not received a grant under title VII of the Education for Economic Security Act, or under this title, in the last fiscal year of the funding cycle prior to the fiscal year for which the determination is made.

"(2) In awarding grants with the first $75,000,000, the Secretary shall not take into account, in whole or in title, whether a local educational agency has received an award in the prior funding cycle.

Minorities.
Discrimination, prohibition.
20 USC 3022.

"SEC. 3002. ELIGIBILITY.

"A local educational agency is eligible to receive assistance under this title if the local educational agency—

"(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency; or

"(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools.

20 USC 3023.

"SEC. 3003. STATEMENT OF PURPOSE.

"It is the purpose of this title to support, through financial assistance to eligible local educational agencies—

"(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority students; and

"(2) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

20 USC 3024.

"SEC. 3004. PROGRAM AUTHORIZED.

Grants.

"The Secretary is authorized, in accordance with the provisions of this part, to make grants to eligible local educational agencies for use in magnet schools which are part of an approved desegregation plan and which are designed to bring students from different social, economic, ethnic, and racial backgrounds together.

102 STAT. 232

20 USC 3025.

"SEC. 3005. DEFINITION.

"For the purpose of this title, the term 'magnet school' means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

20 USC 3026.

"SEC. 3006. USES OF FUNDS.

Grants.

"Grants made under this title may be used by eligible local educational agencies for—

"(1) planning and promotional activities directly related to expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

"(2) the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools; and

"(3) the payment of or subsidization of the compensation of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of programs in magnet schools;

where, with respect to clauses (2) and (3), such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.

"SEC. 3007. APPLICATIONS AND REQUIREMENTS. 20 USC 3027.

"(a) APPLICATION.—Each eligible local educational agency which desires to receive assistance under this title shall submit an application to the Secretary. Each such application shall be in such form as the Secretary may reasonably require. Each such application shall contain assurances that the local educational agency will meet the conditions enumerated in subsection (b).

"(b) REQUIREMENTS CERTIFIED.—As part of the annual application required by subsection (a), each eligible local educational agency shall certify that the agency agrees—

"(1) to use funds made available under this title for the purposes specified in section 3003;

"(2) to employ teachers in the courses of instruction assisted under this title who are certified or licensed by the State to teach the subject matter of the courses of instruction;

"(3) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility; Discrimination, prohibition.

"(4) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the mandatory assignment of students to schools or to courses of instruction within schools of such agency except to carry out the approved plan;

"(5) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in designing or operating extracurricular activities for students;

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"(6) to describe how assistance made available under this title will be used to promote desegregation;

"(7) to provide assurances that the agency will carry out a high quality education program that will encourage greater parental decisionmaking and involvement;

"(8) to provide a description of the manner in which the local educational agency will continue the magnet schools program after assistance under this title is no longer available; and

"(9) to provide such other assurances as the Secretary determines necessary to carry out the provisions of this title.

"(c) SPECIAL RULE.—No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in clauses (3), (4), and (5) of subsection (b) will be met.

"SEC. 3008. SPECIAL CONSIDERATION. 20 USC 3028.

"(a) PRIORITY.—In approving applications under this title the Secretary shall give priority to—

"(1) the recentness of the implementation of the approved plan or modification thereof;

"(2) the proportion of minority group children involved in any approved plan; Minorities.

"(3) the need for assistance based on the expense or difficulty of effectively carrying out an approved plan and the program or projects for which assistance is sought; and

"(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title.

"(b) SPECIAL CONSIDERATION.—In approving applications under this title, the Secretary shall give special consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate State educational agency, or any other private organization.

20 USC 3029.

"SEC. 3009. PROHIBITIONS.

"Grants under this title may not be used for consultants, for transportation, or for any activity which does not augment academic improvement.

20 USC 3030.

"SEC. 3010. LIMITATION ON PAYMENTS.

"(a) LIMITATION ON DURATION AND PROGRESS.—No local educational agency may receive a grant under this title for more than one fiscal year unless the Secretary determines that the program for which assistance was provided in the first fiscal year is making satisfactory progress in achieving the purposes of this title.

"(b) LIMITATION ON PLANNING FUNDS.—No local educational agency may expend more than 10 percent of the amount that the agency receives in any fiscal year for planning.

"(c) SPECIAL RULE ON CHAPTER 2 FUNDS.—No State shall reduce the amount of State aid with respect to the provision of free public education or the amount of assistance received under chapter 2 of title I of this Act in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title.

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20 USC 3031.

"SEC. 3011. PAYMENTS.

"(a) GENERAL RULE.—(1) The Secretary shall pay to each local educational agency having an application approved under this title the amount set forth in the application.

"(2) Notwithstanding section 412 of the General Education Provisions Act, not more than 15 percent of funds available for each fiscal year for the purposes of this title may remain available to local educational agencies for obligation and expenditure during the succeeding fiscal year pursuant to such section. The provisions of this subsection shall not apply if grants are not awarded in a timely manner.

"(3) The Secretary may not reduce any payment under this title for any fiscal year by any amount on the basis of the availability of funds pursuant to sections 412 (b) and (c) of the General Education Provisions Act.

"(4) Payments under this title for a fiscal year shall remain available for obligation and expenditure by the recipient until the end of the succeeding fiscal year, except that no such agency shall receive more than $4,000,000 under this title in any one grant cycle.

Grants.

"(b) AWARD REQUIREMENT.—To the extent practicable, for any fiscal year, the Secretary shall award grants to local educational agencies under this title no later than June 30 of the applicable fiscal year.

20 USC 3032.

"SEC. 3012. WITHHOLDING.

"The provisions of sections 453 and 454 of the General Education Provisions Act, relating to withholding and cease and desist orders, shall apply to the program authorized by this title.

"TITLE IV—SPECIAL PROGRAMS

"PART A—WOMEN'S EDUCATIONAL EQUITY

Women's Educational Equity Act.

"SEC. 4001. SHORT TITLE; FINDINGS AND STATEMENT OF PURPOSE.

20 USC 3041.

"(a) SHORT TITLE.—This part may be cited as the 'Women's Educational Equity Act'.

"(b) FINDINGS AND STATEMENT OF PURPOSE.—(1) The Congress finds and declares that educational programs in the United States,

as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society. The Congress finds and declares that excellence in education cannot be achieved without equity for women and girls.

"(2) It is the purpose of this part to provide educational equity for women in the United States and to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Education Amendments of 1972. It is also the purpose of this part to provide educational equity for women and girls who suffer multiple discrimination, bias, or stereotyping based on sex and on race, ethnic origin, disability, or age.

"SEC. 4002. PROGRAM AUTHORIZED.

20 USC 3042.

"(a) AUTHORIZATION.—The Secretary is authorized to make grants to, and enter into contracts with, public agencies, private nonprofit agencies, organizations, and institutions, including student and community groups, and individuals, for activities designed to achieve the purpose of this part at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. The activities may include—

Grants.
Contracts.

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(1) demonstration, developmental, and dissemination activities of national, statewide, or general significance, including—

"(A) the development, where such materials are commercially unavailable, and evaluation of curricula, textbooks, and other educational materials related to educational equity;

"(B) model preservice and inservice training programs for educational personnel with special emphasis on programs and activities designed to provide educational equity;

"(C) research and development activities designed to advance educational equity;

"(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to ensure educational equity;

"(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women; and

"(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration; and

"(2) assistance to eligible entities to pay a portion of the costs of the establishment and operation, for a period of not to exceed 2 years, of special programs and projects of local significance to provide equal opportunities for both sexes, including activities listed in paragraph (1), activities incident to achieving compliance with title IX of the Education Amendments of 1972 and other special activities designed to achieve the purposes of this part.

Not less than 75 percent of funds used to support activities described by paragraph (2) shall be used for awards to local educational agencies. The Secretary shall ensure that at least 1 grant or contract is available during each fiscal year for the performance of each of the activities described in paragraph (1) of this subsection.

"(b) LIMITATION.—For each fiscal year, the Secretary shall use $4,500,000 from the funds available under this part to support activities described in paragraph (1) of subsection (a). Any funds in excess of $4,500,000 available under this part may be used to support new activities described in paragraph (1) or to support activities described in paragraph (2), or both.

"SEC. 4003. APPLICATION; PARTICIPATION.

20 USC 3043.

"(a) APPLICATION.—A grant may be made, and a contract may be entered into, under this part only upon application to the Secretary,

Grants.
Contracts.

at such time, in such form, and containing or accompanied by such information as the Secretary may prescribe. Each such application shall—

"(1) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

"(2) describe a program for carrying out one or more of the
102 STAT. 236 purposes set forth in section 4001(b) which holds promise of making a substantial contribution toward attaining such purposes; and

"(3) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application, including where appropriate an evaluation or estimate of the potential for continued significance following completion of the grant period.

"(b) SPECIAL RULE.—In approving applications under this part, the Secretary shall give special consideration to—

"(1) applications submitted by applicants that have not received assistance under this part or under part C of title IX of the Elementary and Secondary Education Act of 1965 (as in effect prior to October 1, 1988); and

"(2) proposals from applicants on the basis of geographic distribution throughout the United States.

Discrimination, prohibition.

"(c) LIMITATION.—Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted under this part.

20 USC 3044.

"SEC. 4004. CHALLENGE GRANTS.

"(a) PURPOSE.—In addition to the authority of the Secretary under section 4002, the Secretary shall carry out a program of challenge grants (as part of the grant program administered under section 4002(a)(1)), not to exceed $40,000 each, in order to support projects to develop—

"(1) comprehensive plans for implementation of equity programs at every educational level;

"(2) innovative approaches to school-community partnerships;

"(3) new dissemination and replication strategies; and

"(4) other innovative approaches to achieving the purposes of this part.

"(b) GRANT RECIPIENTS.—For the purpose described in paragraphs (1) through (4) of subsection (a), the Secretary is authorized to make grants to public agencies and private nonprofit organizations and consortia of these groups and to individuals.

20 USC 3045.

"SEC. 4005. CRITERIA AND PRIORITIES.

"The Secretary shall establish separate criteria and priorities for awards under sections 4002(a)(1) and 4002(a)(2) under this part to insure that available funds are used for programs that most effectively will achieve the purposes of this part. The criteria and priorities shall be promulgated in accordance with section 431 of the General Education Provisions Act.

20 USC 3046.

"SEC. 4006. REPORTS, EVALUATION, AND DISSEMINATION.

"(a) REPORTS.—The Secretary shall, from funds authorized under this part, not later than September 30, 1992, submit to the President and the Congress a report setting forth the programs and activities assisted under this part, and provide for the distribution of this report.

"(b) EVALUATION AND DISSEMINATION.—The Secretary, through the Office of Educational Research and Improvement, shall evaluate and disseminate (at low cost) materials and programs developed under this part.

"SEC. 4007. AUTHORIZATION OF APPROPRIATIONS. 20 USC 3047.

"There are authorized to be appropriated $9,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993, to carry out the provisions of this part. 102 STAT. 237

"PART B—GIFTED AND TALENTED CHILDREN

Jacob K. Javits Gifted and Talented Students Education Act of 1988.

"SEC. 4101. SHORT TITLE. 20 USC 3061.

"This part may be referred to as the 'Jacob K. Javits Gifted and Talented Students Education Act of 1988'.

"SEC. 4102. FINDINGS AND PURPOSES. 20 USC 3062.

"(a) FINDINGS.—The Congress finds and declares that—

"(1) gifted and talented students are a national resource vital to the future of the Nation and its security and well-being;

"(2) unless the special abilities of gifted and talented students are recognized and developed during their elementary and secondary school years, much of their special potential for contributing to the national interest is likely to be lost;

"(3) gifted and talented students from economically disadvantaged families and areas, and students of limited English proficiency are at greatest risk of being unrecognized and of not being provided adequate or appropriate educational services;

"(4) State and local educational agencies and private nonprofit schools often lack the necessary specialized resources to plan and implement effective programs for the early identification of gifted and talented students for the provision of educational services and programs appropriate to their special needs; and

"(5) the Federal Government can best carry out the limited but essential role of stimulating research and development and personnel training, and providing a national focal point of information and technical assistance, that is necessary to ensure that our Nation's schools are able to meet the special educational needs of gifted and talented students, and thereby serve a profound national interest.

"(b) STATEMENT OF PURPOSE.—It is the purpose of this part to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to initiate a coordinated program of research, demonstration projects, personnel training, and similar activities designed to build a nationwide capability in elementary and secondary schools to identify and meet the special educational needs of gifted and talented students. It is also the purpose of this part to supplement and make more effective the expenditure of State and local funds, and of Federal funds made available under chapter 2 of title I of this Act and title II of this Act, for the education of gifted and talented students.

"SEC. 4103. DEFINITIONS. 20 USC 3063.

"For the purposes of this part:

"(1) The term 'gifted and talented students' means children and youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities. 102 STAT. 238

"(2) The term 'institution of higher education' has the same meaning given such term in section 435(b) of the Higher Education Act of 1965.

"(3) The term 'Hawaiian native' means any individual any of whose ancestors were natives prior to 1778 of the area which now comprises the State of Hawaii.

"(4) The term 'Hawaiian native organization' means any organization recognized by the Governor of the State of Hawaii primarily serving and representing Hawaiian natives.

20 USC 3064.

"SEC. 4104. AUTHORIZED PROGRAMS.

Contracts.
Grants.
Indians.

"(a) ESTABLISHMENT OF PROGRAM.—From the sums appropriated under section 4108 in any fiscal year the Secretary (after consultation with experts in the field of the education of gifted and talented students) shall make grants to or enter into contracts with State educational agencies, local educational agencies, institutions of higher education, or other public agencies and private agencies and organizations (including Indian tribes and organizations as defined by the Indian Self-Determination and Education Assistance Act and Hawaiian native organizations) to assist such agencies, institutions, and organizations which submit applications in carrying out programs or projects authorized by this Act that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students or in supervising such personnel.

"(b) USES OF FUNDS.—Programs and projects assisted under this section may include—

"(1) preservice and inservice training (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students;

"(2) establishment and operation of model projects and exemplary programs for the identification and education of gifted and talented students, including summer programs and cooperative programs involving business, industry, and education;

"(3) strengthening the capability of State educational agencies and institutions of higher education to provide leadership and assistance to local educational agencies and nonprofit private schools in the planning, operation, and improvement of programs for the identification and education of gifted and talented students;

"(4) programs of technical assistance and information dissemination; and

"(5) carrying out (through the National Center for Research and Development in the Education of Gifted and Talented Children and Youth established pursuant to subsection (c))—

"(A) research on methods and techniques for identifying and teaching gifted and talented students, and

"(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purposes of this part.

Grants.
Contracts.

"(c) ESTABLISHMENT OF NATIONAL CENTER.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institutions of higher education or State educational agencies, or a combination or consortium of such institutions and agencies, for the purpose of carrying out clause (5) of subsection (b). Such National Center shall have a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with other institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

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"(d) LIMITATION.—Not more than 30 percent of the funds available in any fiscal year to carry out the programs and projects authorized by this section may be used for the conduct of activities pursuant to subsections (b)(5) or (c).

20 USC 3065.

"SEC. 4105. PROGRAM PRIORITIES.

"(a) GENERAL PRIORITY.—In the administration of this part the Secretary shall give highest priority—

Disadvantaged persons.
Handicapped persons.

"(1) to the identification of gifted and talented students who may not be identified through traditional assessment methods

(including economically disadvantaged individuals, individuals of limited English proficiency, and individuals with handicaps) and to education programs designed to include gifted and talented students from such groups; and

"(2) to programs and projects designed to develop or improve the capability of schools in an entire State or region of the Nation through cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations (including business, industry, and labor), to plan, conduct, and improve programs for the identification and education of gifted and talented students.

"(b) SERVICE PRIORITY.—In approving applications under section 4104(a) of this part, the Secretary shall assure that in each fiscal year at least one-half of the applications approved contain a component designed to serve gifted and talented students who are economically disadvantaged individuals. Disadvantaged persons.

"SEC. 4106. PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS. 20 USC 3066.

"In making grants and entering into contracts under this Act, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel in preservice and inservice training programs for serving such children. Grants. Contracts.

"SEC. 4107. ADMINISTRATION. 20 USC 3067.

"The Secretary shall establish or designate an administrative unit within the Department of Education—

"(1) to administer the programs authorized by this part,

"(2) to coordinate all programs for gifted and talented students administered by the Department, and

"(3) to serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet those needs.

The administrative unit established or designated pursuant to this section shall be headed by a person of recognized professional qualifications and experience in the field of the education of gifted and talented students. 102 STAT. 240

"SEC. 4108. AUTHORIZATION OF APPROPRIATIONS. 20 USC 3068.

"There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993, to carry out the provisions of this part.

"PART C—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

"SEC. 4301. FINDINGS. 20 USC 3081.

"The Congress makes the following findings:

"(1) Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people and the development of greater opportunities for active and responsible citizenship by young people.

"(2) Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and their educators.

"(3) It is a fitting and appropriate tribute to the beloved Senator Ellender to provide in his name an opportunity for

participation, by students of limited economic means and by their teachers, in the program supported by the Close Up Foundation.

Grants.

"Subpart 1—Program for Secondary School Students and Teachers

20 USC 3091.

"SEC. 4311. ESTABLISHMENT.

Close Up Foundation. District of Columbia.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its program of increasing understanding of the Federal Government among secondary school students, their teachers, and the communities they represent.

Disadvantaged persons.

"(b) USE OF FUNDS.—Grants under this subpart shall be used only for financial assistance to economically disadvantaged students and their teachers who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such students and teachers shall be known as Allen J. Ellender fellowships.

20 USC 3092.

"SEC. 4312. APPLICATIONS.

"(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall contain provisions to assure—

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Disadvantaged persons.

"(1) that fellowship grants are made to economically disadvantaged secondary school students, and to secondary school teachers;

"(2) that not more than 1 secondary school teacher in each such school participating in the program may receive a fellowship grant in any fiscal year;

Rural areas. Urban areas. Disadvantaged persons. Handicapped persons. Minorities.

"(3) that every effort will be made to ensure the participation of students and teachers from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including handicapped students, students from recent immigrant families, ethnic minority students, gifted and talented students, and students of migrant parents; and

"(4) the proper disbursement of the funds of the United States received under this part.

Grants.

"Subpart 2—Programs for Older Americans and Recent Immigrants

20 USC 3101.

SEC. 4321. ESTABLISHMENT.

Close Up Foundation. District of Columbia.

"(a) GENERAL AUTHORITY.—(1) The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among economically disadvantaged older Americans and recent immigrants.

"(2) For the purpose of this subpart, the term 'older American' means an individual who has attained 55 years of age.

"(b) USE OF FUNDS.—Grants under this subpart shall be used only for financial assistance to economically disadvantaged older Americans and recent immigrants who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

"SEC. 4322. APPLICATIONS. 20 USC 3102.

"(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged older Americans and recent immigrants;

"(2) that every effort will be made to ensure the participation of older Americans and recent immigrants from rural and small town areas, as well as from urban areas, and that in awarding fellowships, special consideration will be given to the participation of older Americans and recent immigrants with special needs, including handicapped individuals and ethnic minorities; Rural areas. Urban areas. Handicapped persons. Minorities.

"(3) that activities permitted by section 4321 are fully described; and

"(4) the proper disbursement of the funds of the United States received under this part.

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"Subpart 3—General Provisions

"SEC. 4331. ADMINISTRATIVE PROVISIONS. 20 USC 3111.

"(a) GENERAL RULE.—Payments under this part may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

"(b) AUDIT RULE.—The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this part.

"SEC. 4332. AUTHORIZATION OF APPROPRIATIONS. 20 USC 3112.

"(a) AUTHORIZATION FOR SUBPART 1.—There are authorized to be appropriated to carry out the provisions of subpart 1 of this part $3,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"(b) AUTHORIZATION FOR SUBPART 2.—(1) There are authorized to be appropriated to carry out the provisions of subpart 2 of this part $2,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"(2) No funds may be appropriated pursuant to paragraph (1) for the fiscal year 1989 unless amounts appropriated pursuant to subsection (a) for such fiscal year total not less than $2,500,000. In each of the fiscal years 1990 through 1993, no funds may be appropriated pursuant to paragraph (1) unless sufficient amounts are appropriated pursuant to subsection (a) for the fiscal year to carry out activities under subpart 1 of this part at the level established during the fiscal year 1989.

"PART D—IMMIGRANT EDUCATION

Emergency Immigrant Education Act of 1984.

"SEC. 4401. SHORT TITLE. 20 USC 3121.

"This part may be cited as the 'Emergency Immigrant Education Act of 1984'.

"SEC. 4402. DEFINITIONS. 20 USC 3122.

"As used in this part—

"(1) The term 'immigrant children' means children who were not born in any State and who have been attending schools in any 1 or more States for less than 3 complete academic years.

"(2) The term 'elementary or secondary nonpublic schools' means schools which comply with the applicable compulsory attendance laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

20 USC 3123.

"SEC. 4403. AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS.

"(a) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to make payments to which State educational agencies are entitled under this part and payments for administration under section 4404 $30,000,000 for the fiscal year 1985, $40,000,000 for each of the fiscal years 1986, 1987, 1988, and 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"(b) ALLOCATION OF APPROPRIATIONS.—(1) If the sums appropriated
102 STAT. 243 for any fiscal year to make payments to States under this part are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under this part for such year, the allocations to State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

"(2) In the event that funds become available for making payments under this part for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

20 USC 3124.

"SEC. 4404. STATE ADMINISTRATIVE COSTS.

"The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this part, except that the total of such payments for any period shall not exceed 1.5 per centum of the amounts which that State educational agency is entitled to receive for that period under this part.

20 USC 3125.

"SEC. 4405. WITHHOLDING.

"Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

20 USC 3126.

"SEC. 4406. STATE ENTITLEMENTS.

"(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1985 through 1993 for the purpose set forth in section 4407.

"(b) ENTITLEMENTS.—(1) Except as provided in paragraph (3) and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this part shall be equal to the product of (A) the number of immigrant children enrolled during such fiscal year in elementary and secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, and in any elementary or secondary nonpublic school within the district served by each such local educational agency, multiplied by (B) $500.

"(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, and in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

"(A) at least 500; or

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"(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year; whichever number is less.

"(3)(A) The amount of the grant of any State educational agency for any fiscal year as determined under paragraph (1) shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purpose as those for which funds are available under this part, but such reduction shall be made only to the extent that (i) such amounts are made available for such purpose specifically because of the refugee, parollee, asylee, or other immigrant status of the individuals served by such funds, and (ii) such amounts are made available to provide assistance to individuals eligible for services under this part.

"(B) No reduction of a grant under this part shall be made under subparagraph (A) for any fiscal year if a reduction is made, pursuant to a comparable provision in any such other Federal law, in the amount made available for expenditure in the State for such fiscal year under such other Federal law, based on the amount assumed to be available under this part.

"(c) DETERMINATIONS OF NUMBER OF CHILDREN.—(1) Determinations by the Secretary under this section for any period with respect to the number of immigrant children shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

"(2) No such determination with respect to the number of immigrant children shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

"(d) REALLOCATION.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to 1 or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

"SEC. 4407. USES OF FUNDS.

20 USC 3127.

"(a) SUPPLEMENTARY EDUCATIONAL SERVICES AND COSTS.—Payments made under this part to any State may be used in accordance with applications approved under section 4408 for supplementary educational services and costs, as described under subsection (b) of this section, for immigrant children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 4406(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

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"(b) KINDS OF SERVICES AND COSTS.—Financial assistance provided under this part shall be available to meet the costs of providing immigrant children supplementary educational services, including but not limited to—

"(1) supplementary educational services necessary to enable these children to achieve a satisfactory level of performance, including—

"(A) English language instruction;

"(B) other bilingual educational services; and

"(C) special materials and supplies;

"(2) additional basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

"(3) essential inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

20 USC 3128.

"SEC. 4408. APPLICATIONS.

"(a) SUBMISSION.—No State educational agency shall be entitled to any payment under this part for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

"(2) provide assurances that payments under this part will be used for purposes set forth in section 4407;

"(3) provide assurances that such payments will be distributed among local educational agencies within that State on the basis of the number of children counted with respect to such local educational agency under section 4406(b)(1), adjusted to reflect any reductions imposed pursuant to section 4406(b)(3) which are attributable to such local educational agency;

"(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

Reports.

"(5) provide for making such reports as the Secretary may reasonably require to perform the functions under this part; and

"(6) provide assurances—

"(A) that to the extent consistent with the number of immigrant children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

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"(B) that the control of funds provided under this part and title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

Contracts.

"(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

"(b) APPROVAL OF APPLICATION.—The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State

educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

"SEC. 4409. PAYMENTS. 20 USC 3129.

"(a) AMOUNT.—Except as provided in section 4403(b), the Secretary shall pay to each State educational agency having an application approved under section 4408 the amount which that State is entitled to receive under this part.

"(b) SERVICES TO CHILDREN ENROLLED IN NONPUBLIC SCHOOLS.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 4408(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this part. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of chapter 1 of title I.

"SEC. 4410. REPORTS. 20 USC 3130.

"(a) BIENNIAL REPORT.—Each State educational agency receiving funds under this part shall submit, biennially, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

"(b) REPORT TO CONGRESS.—The Secretary shall submit biannually a report to the appropriate committees of the Congress concerning programs under this part.

"PART E—TERRITORIAL ASSISTANCE

"SEC. 4501. GENERAL ASSISTANCE FOR THE VIRGIN ISLANDS. 20 USC 3141.

"There are authorized to be appropriated $5,000,000 for the fiscal year 1989 and for each of the 4 subsequent fiscal years, for the purpose of providing general assistance to improve public education in the Virgin Islands. Appropriation authorization.

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"SEC. 4502. TERRITORIAL TEACHER TRAINING ASSISTANCE. 20 USC 3142.

"There are authorized to be appropriated $2,000,000 for the fiscal year 1989 and for each of the 4 subsequent fiscal years for the purpose of assisting teacher training programs in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. From the sums appropriated pursuant to this section the Secretary shall make grants and enter into contracts for the purpose of providing training to teachers in schools in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The Secretary may make grants to or contracts with any organization considered qualified to provide training for teachers in such schools and shall allot such sums among such territories on the basis of the need for such training. Appropriation authorization. Grants. Contracts.

"PART F—SECRETARY'S FUND FOR INNOVATION IN EDUCATION

"SEC. 4601. PROGRAM AUTHORIZED. 20 USC 3151.

"(a) GENERAL AUTHORITY.—(1) From funds appropriated under this part, the Secretary is authorized to carry out programs and projects which show promise of identifying and disseminating innovative educational approaches.

"(2) The Secretary, in carrying out the provisions of this part, is authorized to—

"(A) develop, prepare, and conduct an optional test for academic excellence in accordance with section 4602;

"(B) carry out programs for technology education in accordance with section 4603;

"(C) strengthen and expand computer education resources available in public and private elementary and secondary schools in accordance with section 4604; and

"(D) establish and strengthen comprehensive school health education programs in accordance with section 4605.

Grants. Contracts.

"(b) ADMINISTRATIVE AUTHORITY.—The Secretary is authorized to carry out programs and projects under this section directly, or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions.

20 USC 3152.

"SEC. 4602. OPTIONAL TESTS FOR ACADEMIC EXCELLENCE.

"(a) TEST OF ACADEMIC EXCELLENCE AUTHORIZED.—The Secretary is authorized, after consultation with appropriate State and local educational agencies and public and private organizations, to approve comprehensive tests of academic excellence or to develop such a test where commercially unavailable, to be administered to identify outstanding students who are in the eleventh grade of public and private secondary schools.

"(b) PREPARATION AND CONDUCT OF TESTS.—(1) The Secretary is authorized to establish a program through arrangements with appropriate State educational agencies, local educational agencies, public and private secondary schools, and public and private organizations throughout the Nation, under which the tests of academic excellence prepared or approved under this part may be given by such agencies or schools, on a voluntary basis, to students described in this section. The tests of academic excellence shall be tests of acquired skills and knowledge appropriate for the completion of a secondary school education. Such students may file applications for the test at such time and in such manner as the Secretary may prescribe. Upon application by any appropriate agency or school by such time and in such manner as the Secretary may determine, the Secretary shall pay to such agency or school the cost of the administrative expenses it has incurred pursuant to an arrangement made under this section.

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Classified information.

"(2) The Secretary shall assure that the tests authorized by this part are conducted in a secure manner, and that test items remain confidential so that such items may be used in future tests.

"(c) CERTIFICATE.—(1) The Secretary is authorized and directed to prepare a certificate, of such appropriate design as the Secretary shall prescribe, and in such numbers as are necessary, for issuance to students who have scored at a sufficiently high level, as determined by the Secretary, on a test of academic excellence prepared or approved under this subpart and given in accordance with arrangements made under this section. Each such student shall be awarded a certificate within 60 days following the date on which the student was given the test.

"(2) Each certificate awarded pursuant to this section shall be signed by the Secretary.

"(d) REPORT.—The Secretary shall prepare and submit to the Congress a report on the estimated costs of administering, scoring, and analyzing the tests of academic excellence prepared or approved under this subpart.

Communications and telecommunications. 20 USC 3153.

"SEC. 4603. TECHNOLOGY EDUCATION.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to develop materials for educational television and radio programming for use in elementary and secondary education, together with programs which use telecommunications and video resources for the instruction of public and private elementary and secondary school students and for related teacher training programs for public and private elementary and secondary school teachers.

"(b) USES OF FUNDS.—Funds available to carry out this section may be used for—

"(1) programs and projects which use such technology to address specifically the educational needs in critical subject matter areas;

"(2) programs and projects to assist in the training of public and private elementary and secondary school teachers, administrators, and other educational personnel to use in the schools of such television programming, radio programming, telecommunications programs, or video resources, or in the coordination of such technology with the school curriculum; or

"(3) educational television, educational radio, telecommunications or video resources programs or projects which promote a partnership between elementary and secondary schools, the parents of elementary and secondary students, State educational agencies, and institutions of higher education or the community in which such schools are located.

"(c) DEFINITION.—For the purpose of this section the term 'telecommunications' means the full range of technologies that can be used for educational instruction, including closed circuit television 102 STAT. 249
systems, educational television and radio broadcasting, cable television, satellite transmission, computer laser discs, and video and audio discs and tapes.

"SEC. 4604. PROGRAMS FOR COMPUTER-BASED INSTRUCTION.

Grants
20 USC 3154.
Contracts.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants and enter into contracts, as authorized by section 4601 for the purpose of strengthening and expanding computer education resources available in public and private elementary and secondary schools.

"(b) USES OF FUNDS.—Projects assisted under this section may include—

"(1) the acquisition and leasing of computer hardware for instructional purposes, including services necessary for the operation, installation, and maintenance of computer hardware;

"(2) the acquisition of computer software and complementary instructional materials; or

"(3) teacher training programs designed to improve the quality of instruction in computer education and to expand the use of computers in the curriculum. Such programs may make provision for teacher stipends at a rate of $275 per week for the period of attendance in such program. The Secretary may enter into cooperative agreements with the National Science Foundation and other appropriate nonprofit agencies and organizations in carrying out programs under this section.

"(c) SPECIAL RULE.—No grant may expend more than 25 percent for the acquisition of computer hardware.

"(d) PLANNING REQUIREMENT.—No grant may be made under this section unless the applicant carries out planning activities designed to facilitate the use of Federal financial assistance under this section for the expansion of computer resources in elementary or secondary schools. Such planning activities shall include—

"(1) the goals for computer education in the schools;

"(2) integration with the curriculum;

"(3) where appropriate, provisions for computer use after school by students, parents, teachers, and adult learners; and

"(4) standards for the evaluation of computer education programs.

"SEC. 4605. PROGRAMS FOR THE IMPROVEMENT OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.

20 USC 3155.

"(a) GENERAL AUTHORITY.—The Secretary through the Office established under subsection (c) of this section, may—

"(1) encourage State and local educational agencies to provide comprehensive school health education to the elementary and secondary school students in the schools of such agencies;

"(2) provide technical support to State and local educational agencies on health education programs and curricula;

Grants. "(3) make grants to State and local educational agencies in accordance with this section;

Reports. "(4) provide an annual report on the progress of the Office (established under subsection (c)) and the status of school health education in the United States;

"(5) cooperate with other Federal agencies carrying out school health education programs to ensure coordination of such programs; and

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"(6) advise the Secretary on school health education policy.

Grants. "(b) USES OF FUNDS.—Grants under this section may be used to improve elementary and secondary education in the areas of—

"(1) personal health and fitness;
"(2) nutrition;
"(3) mental and emotional health;
"(4) prevention of chronic diseases;
"(5) substance use and abuse;
"(6) accident prevention and safety;
"(7) community and environmental health;
"(8) prevention and control of communicable diseases;
"(9) effective use of the health services delivery system; and
"(10) development and aging.

Establishment. "(c) OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.—The Secretary may establish within the Office of the Secretary an Office of Comprehensive School Health Education with the following responsibilities:

"(1) To recommend mechanisms for the coordination of school health education programs conducted by various Federal agencies.

"(2) To advise the Secretary on the formulation of school health education policy within the Department of Education.

"(3) To disseminate information on the benefits to health education of utilizing a comprehensive health curriculum in schools.

20 USC 3156. "SEC. 4606. ALTERNATIVE CURRICULUM SCHOOLS.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to assist—

"(1) local educational agencies;
"(2) consortia of such agencies; and
"(3) intermediate educational units;

which have significant percentages of minority students to establish and conduct programs which reflect a minority composition of at least 50 percent in the alternative curriculum school established by the applicant to strengthen the knowledge of elementary and secondary school students in academic subjects and to contribute to the desegregation of the schools of the applicant.

Grants. "(b) ELIGIBILITY.—A local educational agency, consortium of such agencies, or intermediate educational unit, is eligible to receive a grant under this section if such agency, unit, or consortium submits an application which contains evidence of collaborative arrangements between the applicant and an institution of higher education, a community-based organization, another local educational agency, an appropriate State educational agency, or any combination of such institutions, organizations, or agencies.

Grants. "(c) USES OF FUNDS.—Grants under this section may be used for—

"(1) planning and outreach activities directly related to expansion and enhancement of academic programs and services in the alternative curriculum school;

"(2) the acquisition of books, materials, and equipment (including computers and the maintenance and operation thereof) necessary for the conduct of educational programs in the alternative curriculum school; and

Wages. "(3) the payment, or subsidization of the compensation, of elementary and secondary school teachers who are certified or

licensed by the State and who are necessary for the conduct of educational programs in the alternative curriculum school; 102 STAT. 251 whenever such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving the vocational skills of elementary and secondary school students.

"(d) APPLICATIONS.—Each applicant desiring to receive a grant under this section shall submit an application in such form, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall— Grants. Minorities.

"(1) provide assurances that the assistance will be used for the purposes described in subsection (c);

"(2) provide assurances that the local educational agency or intermediate educational unit would have a minority composition of at least 65 percent, or in the case of a consortium, that at least one local educational agency would have a minority composition of 65 percent;

"(3) provide assurances that the students served in the alternative curriculum school established reflect a minority composition of at least 50 percent;

"(4) demonstrate the extent to which the alternative curriculum school will contribute to desegregation in the local educational agency;

"(5) demonstrate the extent to which the alternative curriculum school will contribute to the improvements of the academic quality of the education offered by schools throughout the local educational agency;

"(6) describe the collaborative efforts required by subsection (b);

"(7) provide assurances that teachers will be employed in the courses of instruction assisted under this section who are certified or licensed by the State to teach the subject matter of the courses of instruction;

"(8) provide assurances that the applicant will not engage in discrimination based upon race, religion, color, national origin, sex, or handicapping conditions in— Discrimination, prohibition.

"(A) hiring, promotion, or assignment of employees of the applicant or other personnel for whom the applicant has any administrative responsibility;

"(B) the mandatory assignment of students to schools or to courses of instruction within schools of such applicant, except as is necessary to carry out an approved desegregation plan; and

"(C) designing or operating extracurricular activities for students;

"(9) describe how funds made available under this section will be used to promote integration and provide a high quality education program for local educational agencies with significant concentrations of minority students;

"(10) describe how such applicant will devote its resources to continuing the program when funds made available to it under this section may no longer be made available; and

"(11) provide such other assurances as the Secretary determines necessary.

"(e) UNUSED AMOUNTS.—In any fiscal year in which amounts are appropriated but not allocated under this section, the Secretary shall use such amounts to make grants under title III of this Act (relating to magnet schools).

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"(f) SPECIAL EVIDENTIARY RULE.—Notwithstanding any other provision of law, the award of funds under this section may not be used in any cause of action or administrative proceeding as evidence relating to the issue of desegregation of a public school of a local educational agency receiving such an award.

"SEC. 4607. AUTHORIZATION OF APPROPRIATIONS. 20 USC 3157.

"(a) There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the

fiscal years 1990 through 1993, to carry out the provisions of this part (other than section 4606).

"(b)(1) Subject to paragraph (2), there are authorized to be appropriated $35,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993 to carry out section 4606.

"(2) No appropriation may be made under paragraph (1) for any fiscal year unless the amount appropriated for the Magnet Schools Assistance Program in title III for that fiscal year is equal to or exceeds $165,000,000.

"TITLE V—DRUG EDUCATION

Drug-Free Schools and Communities Act of 1986.
20 USC 3171.

"SEC. 5101. SHORT TITLE.

"This title may be cited as the 'Drug-Free Schools and Communities Act of 1986'.

20 USC 3172.

"SEC. 5102. FINDINGS.

"The Congress finds that:

"(1) Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.

"(2) Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.

"(3) The use of drugs and the abuse of alcohol by students constitute a grave threat to their physical and mental well-being and significantly impede the learning process.

"(4) The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.

"(5) Schools and local organizations in communities throughout the Nation have special responsibilities to work together to combat the scourge of drug use and alcohol abuse.

"(6) Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.

20 USC 3173.

"SEC. 5103. PURPOSE.

"It is the purpose of this title to establish programs of drug abuse education and prevention (coordinated with related community efforts and resources) through the provision of Federal financial assistance—

Grants.

"(1) to States for grants to local and intermediate educational agencies and consortia to establish, operate, and improve local programs of drug abuse prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

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Grants.
Contracts.

"(2) to States for grants to and contracts with community-based organizations for programs of drug abuse prevention, early intervention, rehabilitation referral, and education for school dropouts and other high-risk youth;

"(3) to States for development, training, technical assistance, and coordination activities;

"(4) to institutions of higher education to establish, implement, and expand programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in colleges and universities; and

"(5) to institutions of higher education in cooperation with State and local educational agencies for teacher training programs in drug abuse education and prevention.

"PART A—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

"SEC. 5111. AUTHORIZATION OF APPROPRIATIONS. 20 USC 3181.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $250,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"(b) AVAILABILITY.—(1) Appropriations for any fiscal year for payments made under this title in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

"(2) Funds appropriated for any fiscal year under this title shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

"SEC. 5112. RESERVATIONS AND STATE ALLOTMENTS. 20 USC 3182.

"(a) RESERVATIONS.—From the sums appropriated or otherwise made available to carry out this title for any fiscal year, the Secretary shall reserve—

"(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs; Territories, U.S.

"(2) 1 percent for programs for Indian youth under section 5133; Indians.

"(3) 0.2 percent for programs for Hawaiian natives under section 5134;

"(4) 8 percent for programs with institutions of higher education under section 5131;

"(5) 3.5 percent for Federal activities under section 5132; and

"(6) 4.5 percent for regional centers under section 5135.

"(b) STATE ALLOTMENTS.—(1) From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than an amount equal to 0.5 percent of such remainder. 102 STAT. 254

"(2) The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within 2 years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (1).

"(3) For purposes of this subsection, the term 'State' means any of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(4) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under this subsection from amounts appropriated for that fiscal year.

"PART B—STATE AND LOCAL PROGRAMS

"SEC. 5121. USE OF ALLOTMENTS BY STATES. 20 USC 3191.

"(a) STATE PROGRAM.—An amount equal to 30 percent of the total amount paid to a State from its allotment under section 5112 for any fiscal year shall be used by the chief executive officer of such State for a State program in accordance with section 5122.

"(b) WITHIN STATE DISTRIBUTION; ADMINISTRATIVE COSTS.—An amount equal to 70 percent of the total amount paid to a State from its allotment under section 5112 for any fiscal year shall be used by the State educational agency to carry out its responsibilities in accordance with section 5124 and for grants to local and intermedi- Grants.

ate educational agencies and consortia for programs and activities in accordance with section 5125.

20 USC 3192.

"SEC. 5122. STATE PROGRAMS.

Grants.
Contracts.

"(a) IN GENERAL.—Not more than 50 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for grants to and contracts with local governments and other public or private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) for the development and implementation of programs and activities such as—

"(1) local broadly-based programs for drug and alcohol abuse prevention, early intervention, rehabilitation referral, and education for all age groups;

"(2) training programs concerning drug abuse education and prevention for teachers, counselors, other educational personnel, parents, local law enforcement officials, judicial officials, other public service personnel, and community leaders;

"(3) the development and distribution of educational and informational materials to provide public information (through the media and otherwise) for the purpose of achieving a drug-free society;

"(4) technical assistance to help community-based organizations and local and intermediate educational agencies and consortia in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs;

"(5) activities to encourage the coordination of drug abuse education and prevention programs with related community efforts and resources, which may involve the use of a broadly representative State advisory council including members of the

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State board of education, members of local boards of education, parents, teachers, counselors, health and social service professionals, and others having special interest or expertise; and

"(6) other drug abuse education and prevention activities consistent with the purposes of this title, which may include a youth suicide prevention program.

"(b) INNOVATIVE PROGRAMS.—(1) Not less than 50 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for innovative community-based programs of coordinated services for high-risk youth. The chief executive officer of such State shall make grants to or contracts with local governments and other public and private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) to carry out such services.

Grants.
Contracts.

"(2) For purposes of this subsection, the term 'high risk youth' means an individual who has not attained the age of 21 years, who is at high risk of becoming or who has been a drug or alcohol abuser, and who—

"(A) is a school dropout;
"(B) has become pregnant;
"(C) is economically disadvantaged;
"(D) is the child of a drug or alcohol abuser;
"(E) is a victim of physical, sexual, or psychological abuse;
"(F) has committed a violent or delinquent act;
"(G) has experienced mental health problems;
"(H) has attempted suicide; or
"(I) has experienced long-term physical pain due to injury.

20 USC 3193.

"SEC. 5123. STATE APPLICATIONS.

"(a) IN GENERAL.—In order to receive an allotment under section 5112(b), a State shall submit an application to the Secretary. As part of such application, the chief executive officer of the State shall agree to use the funds made available under section 5121(a) in accordance with the requirements of this part. As part of such application, the State educational agency of the State shall agree to

use the funds made available under section 5121(b) in accordance with the requirements of this part.

"(b) CONTENTS OF APPLICATIONS.—The application submitted by each State under subsection (a) shall—

"(1) cover a period of three fiscal years;

"(2) be submitted at such time and in such manner, and contain such information, as the Secretary may require;

"(3) contain assurances that the Federal funds made available under this part for any period will be so used as to supplement and increase the level of State, local, and non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this part and will in no event supplant such State, local, and other non-Federal funds;

"(4) provide that the State will keep such records and provide such information as may be required by the Secretary for fiscal audit and program evaluation; Records.

"(5) contain assurances that there is compliance with the specific requirements of this part;

"(6) describe the manner in which the State educational agency will coordinate its efforts with appropriate State health, law enforcement, and drug abuse prevention agencies, including the State agency which administers the Alcohol, Drug Abuse, and Mental Health block grant under part B of title XIX of the Public Health Service Act; 102 STAT. 256

"(7) provide assurances that the State educational agency will provide financial assistance under this part only to local and intermediate educational agencies and consortia which establish and implement drug abuse education and prevention programs in elementary and secondary schools;

"(8) provide for an annual evaluation of the effectiveness of programs assisted under this part; and

"(9) provide a description of how, where feasible, the alcohol and drug abuse programs will be coordinated with youth suicide prevention programs funded by the Federal Government, State and local governments, and nongovernmental agencies and organizations.

"SEC. 5124. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES. 20 USC 3194.

"(a) GRANTS TO LOCAL AND INTERMEDIATE EDUCATIONAL AGENCIES.—Each State educational agency shall use a sum which shall be not less than 90 percent of the amounts available under section 5121(b) for each fiscal year for grants to local and intermediate educational agencies and consortia in the State, in accordance with applications approved under section 5126. From such sum, the State educational agency shall distribute funds for use among areas served by local or intermediate educational agencies or consortia on the basis of the relative enrollments in public and private nonprofit schools within the areas served by such agencies. Any amount of the funds made available for use in any area remaining unobligated for more than 1 year after the funds were made available may be provided by the State educational agency to local or intermediate educational agencies or consortia having plans for programs or activities capable of using such amount on a timely basis.

"(b) STATE PROGRAMS.—Each State educational agency shall use not more than 10 percent of the amounts available under section 5121(b) for each fiscal year for such activities as—

"(1) training and technical assistance programs concerning drug abuse education and prevention for local and intermediate educational agencies, including teachers, administrators, athletic directors, other educational personnel, parents, local law enforcement officials, and judicial officials;

"(2) the development, dissemination, implementation, and evaluation of drug abuse education curricular and teaching

materials for elementary and secondary schools throughout the State;

"(3) demonstration projects in drug abuse education and prevention;

"(4) special financial assistance to enhance resources available for drug abuse education and prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet special needs; and

"(5) administrative costs of the State educational agency in carrying out its responsibilities under this part, not in excess of 2.5 percent of the amount available under section 5121(b).

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20 USC 3195.

"SEC. 5125. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

"(a) IN GENERAL.—Any amounts made available to local or intermediate educational agencies or consortia under section 5124(a) shall be used for drug and alcohol abuse prevention and education programs and activities, including—

"(1) the development, acquisition, and implementation of elementary and secondary school drug abuse education and prevention curricula which clearly and consistently teach that illicit drug use is wrong and harmful;

"(2) school-based programs of drug abuse prevention and early intervention (other than treatment);

"(3) family drug abuse prevention programs, including education for parents to increase awareness about the symptoms and effects of drug use through the development and dissemination of appropriate educational materials;

"(4) drug abuse prevention counseling programs (which counsel that illicit drug use is wrong and harmful) for students and parents, including professional and peer counselors and involving the participation (where appropriate) of parent, or other adult counselors and reformed abusers;

"(5) programs of referral for drug abuse treatment and rehabilitation;

"(6) programs of inservice and preservice training in drug and alcohol abuse prevention for teachers, counselors, other educational personnel, athletic directors, public service personnel, law enforcement officials, judicial officials, and community leaders;

"(7) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach;

"(8) community education programs and other activities to involve parents and communities in the fight against drug and alcohol abuse;

"(9) public education programs on drug and alcohol abuse, including programs utilizing professionals and former drug and alcohol abusers;

"(10) on-site efforts in schools to enhance identification and discipline of drug and alcohol abusers, and to enable law enforcement officials to take necessary action in cases of drug possession and supplying of drugs and alcohol to the student population;

"(11) special programs and activities to prevent drug and alcohol abuse among student athletes, involving their parents and family in such drug and alcohol abuse prevention efforts and using athletic programs and personnel in preventing drug and alcohol abuse among all students; and

"(12) other programs of drug and alcohol abuse education and prevention, consistent with the purposes of this part.

"(b) ELIGIBILITY.—A local or intermediate educational agency or consortium may receive funds under this part for any fiscal year covered by an application under section 5126 approved by the State educational agency.

"SEC. 5126. LOCAL APPLICATIONS. 20 USC 3196.

"(a) IN GENERAL.—(1) In order to be eligible to receive a grant under this part for any fiscal year, a local or intermediate educational agency or consortium shall submit an application to the State educational agency for approval. Grants. 102 STAT. 258

"(2) An application under this section shall be for a period not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application. Such application shall—

"(A) set forth a comprehensive plan for programs to be carried out by the applicant under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) establish or designate a local or substate regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse education and prevention;

"(D) describe the extent of the current drug and alcohol problem in the schools of the applicant;

"(E) describe the applicant's drug and alcohol policy, including an explanation of—

"(i) the practices and procedures it will enforce to eliminate the sale or use of drugs and alcohol on school premises; and

"(ii) how it will convey to students the message that drug use is not permissible;

"(F) describe how the applicant will monitor the effectiveness of its program;

"(G) describe the manner in which the applicant will establish, implement, or augment mandatory age-appropriate, developmentally-based, drug abuse education and prevention programs for students throughout all grades of the schools operated or served by the applicant (from the early childhood level through grade 12), and provide assurances that the applicant enforces related rules and regulations of student conduct;

"(H) describe the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

"(I) provides assurances that the applicant will coordinate its efforts with appropriate State and local drug and alcohol abuse, health, and law enforcement agencies, in order to effectively conduct drug and alcohol abuse education, intervention, and referral for treatment and rehabilitation for the student population;

"(J) provide assurances that the Federal funds made available under this part shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

"(K) provide assurances of compliance with the provisions of this part;

"(L) agree to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and Records. 102 STAT. 259

"(M) include such other information and assurances as the State educational agency reasonably determines to be necessary.

"(b) PROGRESS REPORTS.—(1) An applicant shall submit to the State educational agency a progress report on the first 2 fiscal years of implementation of its plan. The progress report shall include—

"(A) the applicant's significant accomplishments under the plan during the preceding 2 years; and

"(B) the extent to which the original objectives of the plan are being achieved.

"(2) If the State educational agency determines that the applicant's progress report shows that it is not making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act, the State educational agency shall provide such technical assistance to the applicant as may be necessary.

20 USC 3197.

"SEC. 5127. STATE REPORTS.

"Each State shall submit to the Secretary a biennial report that contains information on the State and local programs conducted under this Act in the State.

"PART C—NATIONAL PROGRAMS

20 USC 3211.

"SEC. 5131. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

Contracts.

"(a) IN GENERAL.—(1) From sums reserved by the Secretary under section 5112(a)(4) for the purposes of this section, the Secretary shall make grants to or enter into contracts with institutions of higher education or consortia of such institutions for drug abuse education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to colleges and universities of limited enrollment.

"(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

"(b) TRAINING GRANTS.—Training grants shall be available for—

"(1) preservice and inservice training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

"(2) summer institutes and workshops in instruction in the field of drug abuse education and prevention;

Research and development.

"(3) research and demonstration programs for teacher training and retraining in drug abuse education and prevention; and

"(4) training programs for law enforcement officials, judicial officials, community leaders, parents, and government officials.

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"(c) GRANTS FOR MODEL DEMONSTRATION PROGRAMS.—Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this subsection, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

Research and development.

"(d) GRANTS FOR PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION.—Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in institutions of higher education.

"(e) COLLABORATIVE EFFORTS.—In making grants under paragraphs (1) and (2) of subsection (b), the Secretary shall encourage projects which provide for coordinated and collaborative efforts between State educational agencies, local educational agencies, and regional centers established under section 5135.

"SEC. 5132. FEDERAL ACTIVITIES. 20 USC 3212.

"(a) USE OF RESERVED FUNDS.—From sums reserved by the Secretary under section 5112(a)(5), the Secretary shall carry out the purposes of this section.

"(b) FEDERAL DRUG ABUSE EDUCATION AND PREVENTION ACTIVITIES.—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall carry out Federal education and prevention activities on drug abuse. The Secretary shall coordinate such drug abuse education and prevention activities with other appropriate Federal activities related to drug abuse. The Secretary shall directly or through grants, cooperative agreements, or contracts— Grants. Contracts.

"(1) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 509 of the Public Health Service Act;

"(2) facilitate the utilization of appropriate means of communicating to students at all educational levels about the dangers of drug use and alcohol abuse, especially involving the participation of entertainment personalities and athletes who are recognizable role models for many young people;

"(3) develop, publicize the availability of, and widely disseminate audio-visual and other curricular materials for drug abuse education and prevention programs in elementary and secondary schools throughout the Nation;

"(4) provide technical assistance to State, local, and intermediate education agencies and consortia in the selection and implementation of drug abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies; and

"(5) identify research and development priorities with regard to school-based drug abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4. Research and development.

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"(c) STUDIES.—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the relationship between drug and alcohol abuse and youth suicide and shall submit a report of the findings of such studies to the President and to the appropriate committees of the Congress not later than 1 year after the date of the enactment of this title. In addition the Secretary may conduct periodic evaluations of programs authorized by this Act. Contracts. Reports.

"SEC. 5133. PROGRAMS FOR INDIAN YOUTH. 20 USC 3213.

"(a) USE OF RESERVED FUNDS.—From the funds reserved pursuant to section 5112(a)(2), the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection. Grants.

"(b) FINANCIAL ARRANGEMENTS.—The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools funded for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title. Contracts.

"(c) GRANT AND CONTRACT AUTHORITY.—The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

"(d) ADDITIONAL PROGRAMS.—Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this title.

20 USC 3214.

"SEC. 5134. PROGRAMS FOR HAWAIIAN NATIVES.

Grants.
Contracts.

"(a) GENERAL AUTHORITY.—From the funds reserved pursuant to section 5112(a)(3), the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this title for the benefit of Hawaiian natives.

"(b) DEFINITION OF 'HAWAIIAN NATIVE'.—For the purposes of this section, the term 'Hawaiian native' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

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20 USC 3215.

"SEC. 5135. REGIONAL CENTERS.

Grants.
Contracts.

"The Secretary, through grants, cooperative agreements, or contracts, shall use the amounts made available to carry out this section for each fiscal year to maintain 5 regional centers to—

"(1) train school teams to assess the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address such problems, design appropriate curricula, identify students at highest risk and refer them to appropriate treatment, and institutionalize long-term effective drug and alcohol abuse programs, including long-range technical assistance, evaluation, and followup on such training;

"(2) assist State educational agencies in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

"(3) assist local educational agencies and institutions of higher education in developing appropriate preservice and inservice training programs for educational personnel; and

"(4) evaluate and disseminate information on effective drug abuse and alcohol abuse education and prevention programs and strategies.

"PART D—GENERAL PROVISIONS

20 USC 3221.

"SEC. 5141. DEFINITIONS.

"(a) GENERAL RULE.—Except as otherwise provided, the terms used in this title shall have the meaning provided under section 1471 of title 1 of this Act.

"(b) SPECIFIC DEFINITIONS.—For the purposes of this title, the following terms have the following meanings:

"(1) The term 'drug abuse education and prevention' means prevention, early intervention, rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances.

"(2) The term 'illicit drug use' means the use of illegal drugs and the abuse of other drugs and alcohol.

"(3) The term 'Secretary' means the Secretary of Education.

"(4) The term 'school-age population' means the population aged 5 through 17 (inclusive), as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"(5) The term 'school dropout' means an individual aged 5 through 18 who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma. This definition shall not apply after the Secretary defines such term as required by section 6201 of this Act.

"(6) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

"(7) The term 'institution of higher education' means an educational institution in any State which—

"(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

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"(B) is legally authorized within such State to provide a program of education beyond high school;

"(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a 2-year program which is acceptable for full credit toward such a degree, or offers a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

"(D) is a public or other nonprofit institution; and

"(E) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than 3 institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, except that in the case of an institution offering a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which requires the understanding and application of basic engineering, scientific, or mathematical principles or knowledge if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, the Secretary shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this title and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

"(8) The term 'nonprofit' as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of

which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(9) The term 'consortium' (except in section 5131) means a consortium of local educational agencies or of one or more intermediate educational agencies and one or more local educational agencies.

20 USC 3222. "SEC. 5142. FUNCTIONS OF THE SECRETARY OF EDUCATION.

"(a) ADMINISTRATION.—The Secretary shall be responsible for the administration of the programs authorized by this title.

"(b) APPLICABILITY OF GENERAL EDUCATION PROVISIONS ACT.—Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this title.

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20 USC 3223. "SEC. 5143. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS.

"(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part B who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title.

"(b) PARTICIPATION OF PRIVATE SCHOOL TEACHERS.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part B who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this title.

"(c) WAIVER; PROVISION OF SERVICES BY SECRETARY.—If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of this Act.

20 USC 3224. "SEC. 5144. MATERIALS.

"Any materials produced or distributed with funds made available under this title shall reflect the message that illicit drug use is wrong and harmful. The Secretary shall not review curricula and shall not promulgate regulations to carry out this subsection or subparagraph (1) or (4) of section 5125(a).

"PART E—MISCELLANEOUS PROVISIONS

20 USC 3231. "SEC. 5191. INDIAN EDUCATION PROGRAMS.

"(a) PILOT PROGRAMS.—The Assistant Secretary of Indian Affairs shall develop and implement pilot programs in selected schools funded by the Bureau of Indian Affairs (subject to the approval of the local school board or contract school board) to determine the

effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention Act of 1986. The Assistant Secretary shall defray all costs associated with the actual operation and support of the pilot programs in the school from funds appropriated for this section. For the pilot programs there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

Appropriation authorization.

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"(b) USE OF FUNDS.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

"(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act (25 U.S.C. 452 et seq.),

"(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

"(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

"SEC. 5192. TRANSITION.

20 USC 3232.

"Notwithstanding section 1003 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, a State educational agency may allot funds for each of the fiscal years 1987 and 1988 to local and intermediate educational agencies and consortia under section 4124 of the Drug-Free Schools and Communities Act of 1986 on the basis of their relative numbers of children in the school-age population.

"TITLE VI—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROP-OUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

"PART A—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

School Dropout Demonstration Assistance Act of 1988.

"SEC. 6001. SHORT TITLE.

20 USC 3241.

"This part may be cited as the 'School Dropout Demonstration Assistance Act of 1988'.

"SEC. 6002. PURPOSE.

20 USC 3242.

"The purpose of this part is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish and demonstrate—

"(1) effective programs to identify potential student dropouts and prevent them from dropping out;

"(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

"(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

"(4) model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

"SEC. 6003. AUTHORIZATION OF APPROPRIATIONS.

20 USC 3243.

"There are authorized to be appropriated to carry out this part $50,000,000 for the fiscal year 1989.

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"SEC. 6004. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

20 USC 3244.

"(a) ALLOTMENT TO CATEGORIES OF LOCAL EDUCATIONAL AGENCIES.—From the amount appropriated under section 6003 for any

fiscal year, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

"(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of the amount appropriated.

"(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of the amount appropriated.

"(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of the amount appropriated. Grants may be made under this paragraph to intermediate educational units and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such units and consortia may also apply in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

"(4) Community-based organizations shall be allotted 5 percent of the amount appropriated. Grants under this category shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

"(b) SPECIAL TREATMENT OF EDUCATIONAL PARTNERSHIPS.—(1) The Secretary shall allot 25 percent of the funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) of this section to educational partnerships.

"(2) Educational partnerships under this subsection shall include—

"(A) a local educational agency; and

"(B) a business concern or business organization, or, if an appropriate business concern or business organization is not available, one of the following: any community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

"(c) AWARD OF GRANT.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 6005 and whose applications propose a program of sufficient size and scope to be of value as a demonstration. The grants shall be made under such terms and conditions as the Secretary shall prescribe consistent with the provisions of this part.

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"(d) USE OF FUNDS WHEN NOT FULLY NEEDED FOR EDUCATIONAL PARTNERSHIPS.—(1) Whenever the Secretary determines that the full amount of the sums made available under subsection (b) in each category for educational partnerships will not be required for applications of educational partnerships, the Secretary shall make the amount not so required available to local educational agencies in the same category in which the funds are made available.

"(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund educational partnerships and shall prepare a list of the categories in which additional funds are available, and the reasons therefor, and make such list available to local educational agencies upon request. The Secretary may use the peer review

process to determine grant recipients of funds transferred in accordance with this subsection.

"(e) USE OF FUNDS WHEN NOT FULLY ALLOTTED TO CATEGORIES UNDER SUBSECTION (a).—(1) Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) will not be required for applications of the local educational agencies in the case of categories (1) through (3), the Secretary shall make the amount not so required available to another category under subsection (a). In carrying out the provisions of this subsection, the Secretary shall assure that the transfer of amounts from one category to another is made to a category in which there is the greatest need for funds.

"(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships, upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

"(f) FEDERAL SHARE.—(1) The Federal share of a grant under this part may not exceed—

"(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part, and

"(B) 75 percent of such cost for the second such year.

"(2) The remaining cost of a project that receives assistance under this part may be paid from any source other than funds made available under this part, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this part.

"(3) The share of payments from sources other than funds made available under this part may be in cash or in kind fairly evaluated, including plant, equipment or services.

"SEC. 6005. APPLICATION.

20 USC 3245.

Grants.

"(a) IN GENERAL.—(1) A grant under this part may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

"(2) Applications shall be for a 1-year period.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) provide documentation of— 102 STAT. 268

"(A) the number of children who were enrolled in the schools of the applicant for the 5 academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts pursuant to section 5141(b)(5); and

"(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

"(2) include a plan for the development and implementation of a dropout information collection and reporting system for documenting the extent and nature of the dropout problem;

"(3) include a plan for coordinated activities involving at least 1 high school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

"(4) include a plan for the development and implementation of a project including activities designed to carry out the purpose of this part, such as—

"(A) implementing identification, prevention, outreach, or reentry projects for dropouts and potential dropouts;

"(B) addressing the special needs of school-age parents;

"(C) disseminating information to students, parents, and the community related to the dropout problem;

"(D) as appropriate, including coordinated services and activities with programs of vocational education, adult basic education, and programs under the Job Training Partnership Act;

Communications and telecommunications.

"(E) involving the use of educational and telecommunications and broadcasting technologies and educational materials for dropout prevention, outreach, and reentry;

"(F) providing activities which focus on developing occupational competencies which link job skill preparation and training with genuine job opportunities;

"(G) establishing annual procedures for—

"(i) evaluating the effectiveness of the project; and

"(ii) where possible, determining the cost-effectiveness of the particular dropout prevention and reentry methods used and the potential for reproducing such methods in other areas of the country;

"(H) coordinating, to the extent practicable, with other student dropout activities in the community; or

"(I) using the resources of the community and parents to help develop and implement solutions to the local dropout problem; and

"(5) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

"(c) PRIORITY.—The Secretary shall, in approving applications under this section, give priority to applications which both show the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency and reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 6004(a).

"(d) SPECIAL CONSIDERATION.—The Secretary shall give additional special consideration to applications that include—

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"(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

"(2) provisions for significant parental involvement.

20 USC 3246.

"SEC. 6006. AUTHORIZED ACTIVITIES.

Grants.

"(a) IN GENERAL.—Grants under this part shall be used to carry out plans set forth in applications approved under section 6005. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including, but not limited to—

"(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

"(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school;

"(3) the establishment or expansion of work-study, apprentice, or internship programs;

Contracts.

"(4) the use of resources of the community, including contracting with public or private entities or community-based organizations of demonstrated performance, to provide services to the grant recipient or the target population;

"(5) the evaluation and revision of program placement of students at risk;

"(6) the evaluation of program effectiveness of dropout programs;

"(7) the development and implementation of programs for traditionally underserved groups of students;

"(8) the implementation of activities which will improve student motivation and the school learning environment;

"(9) the provision of training for school staff on strategies and techniques designed to—

"(A) identify children at risk of dropping out;

"(B) intervene in the instructional program with support and remedial services;

"(C) develop realistic expectations for student performance; and

"(D) improve student-staff interactions;

"(10) the study of the relationship between drugs and dropouts and between youth gangs and dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs;

"(11) the study of the relationship between handicapping conditions and student dropouts;

"(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

"(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities; and

Communications and telecommunications.

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"(14) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this part.

"(b) ACTIVITIES FOR EDUCATIONAL PARTNERSHIPS.—Grants under this part may be used by educational partnerships for—

Grants.

"(1) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

Employment and unemployment.

"(2) internship, work study, or apprenticeship programs;

"(3) summer employment programs;

"(4) occupational training programs;

"(5) career opportunity and skills counseling;

"(6) job placement services;

"(7) the development of skill employment competency testing programs;

"(8) special school staff training projects; and

"(9) any other activity described in subsection (a).

"SEC. 6007. DISTRIBUTION OF ASSISTANCE; LIMITATION ON COSTS.

Grants.
20 USC 3247.

"(a) DISTRIBUTION OF ASSISTANCE.—The Secretary shall ensure that, to the extent practicable, in approving grant applications under this part—

"(1) grants are equitably distributed on a geographic basis within each category set forth in section 6004(a);

"(2) the amount of a grant to a local educational agency for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

"(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

"(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once they return to school.

"(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant made under this part may be used for administrative costs.

"PART B—ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT

Secondary Schools Basic Skills Demonstration Assistance Act of 1988.
20 USC 3261.

"SEC. 6101. SHORT TITLE.

"This part may be cited as the 'Secondary Schools Basic Skills Demonstration Assistance Act of 1988'.

Disadvantaged persons.
20 USC 3262.

"SEC. 6102. PURPOSE.

"It is the purpose of this part to provide assistance to local educational agencies with high concentrations of children from low-income families to improve the achievement of educationally disadvantaged children enrolled in the secondary schools of such agencies.

20 USC 3263.

"SEC. 6103. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part
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$200,000,000 for fiscal year 1989.

20 USC 3264.

"SEC. 6104. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) GENERAL AUTHORITY.—From the amount appropriated under section 6103 for any fiscal year the Secretary shall make grants to local educational agencies in accordance with the provisions of this part.

"(b) COMMUNITY-BASED ORGANIZATIONS RULE.—Each local educational agency may carry out the activities described in section 6105 in cooperation with community-based organizations.

"(c) ELIGIBLE STUDENTS.—Secondary school students who meet the requirements of part A of chapter 1 of title I of this Act other than the requirement of attendance in the designated school attendance area shall be eligible to participate in programs and activities assisted under this part.

20 USC 3265.

"SEC. 6105. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Funds made available under this part may be used—

"(1) to initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

"(2) to develop innovative approaches—

"(A) for surmounting barriers that make secondary school programs under this part difficult for certain students to attend and difficult for secondary schools to administer, such as scheduling problems; and

"(B) for courses leading to successful completion of the general educational development test or of graduation requirements;

Employment and unemployment.

"(3) to develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, pre-employment training, or transition-to-work activities;

"(4) to provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

"(5) to use the resources of the community to assist in providing services to the target population;

"(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

"(7) to provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other pupil services which are necessary to assist eligible students; or

"(8) to recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this part and under part A of chapter 1 of title I of this Act, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

"(b) LIMITATION.—Not more than 25 percent of amounts available to a local educational agency under this part may be used by such agency for noninstructional services such as those described in subsections (a)(3), (a)(5), and (a)(7). 102 STAT. 272

"SEC. 6106. APPLICATION. 20 USC 3266.

"(a) IN GENERAL.—(1) A grant under this part may be made only to a local educational agency which submits an application to the Secretary containing or accompanied by such information as the Secretary may reasonably require. Grants.

"(2) Applications shall be for a 1-year period.

"(b) CONTENTS OF APPLICATION.—Each such application shall include—

"(1) a description of the program goals and the manner in which funds will be used to initiate or expand services to secondary school students;

"(2) a description of the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel needed to develop, administer, and implement the program under this part);

"(3) a list of the secondary schools within the local educational agency in which programs will be conducted and a description of the needs of the schools, in terms of achievement levels of students and poverty rates;

"(4) an assurance that programs will be operated in secondary schools with the greatest need for assistance, in terms of achievement levels and poverty rates;

"(5) an assurance that parents of eligible students will be involved in the development and implementation of programs under this part;

"(6) a statement of the methods which will be used—

"(A) to ensure that the programs will serve eligible students most in need of the activities and services provided by this part; and

"(B) an assurance that services will be provided under this part to special populations, such as individuals with limited English proficiency and individuals with handicaps; Disadvantaged persons. Handicapped persons.

"(7) an assurance that the program will be of sufficient size, scope, and quality to offer reasonable promise of success;

"(8) a description of the manner in which the agency will provide for equitable participation of private school students as provided under section 1017 of this Act;

"(9) a description of the methods by which the applicant will coordinate programs under this part with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Job Training Partnership Act, and other relevant Acts; and

"(10) such other information as the Secretary may require to determine the nature and quality of the proposed project and the applicant's ability to carry out the project.

"(c) APPROVAL OF APPLICATIONS.—(1) The Secretary shall, in approving applications under this section, give special consideration to programs that—

"(A) demonstrate the greatest need for services assisted under this part based on their numbers or proportions of secondary Disadvantaged persons.

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school children from low-income families and numbers or proportions of low-achieving secondary school children; and

"(B) offer innovative approaches to improving achievement among eligible secondary school children and offer approaches which show promise for replication and dissemination.

Urban areas. Rural areas.

"(2) The Secretary shall ensure that programs for which applications are approved under this section are representative of urban and rural regions in the United States.

"(d) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant under this part may be used for administrative costs.

"PART C—GENERAL PROVISIONS

20 USC 3271.

"SEC. 6201. GENERAL PROVISIONS.

"(a) DEFINITION OF SCHOOL DROPOUT.—The Secretary shall, not later than 60 days after the date of the enactment of this title, establish a standard definition of a school dropout, after consultation with pertinent organizations and groups. If the Secretary has defined the term 'school dropout' for fiscal year 1988 that definition shall apply for the purposes of this section.

"(b) TIMELY AWARD OF GRANTS.—To the extent possible, for any fiscal year the Secretary shall award grants to local educational agencies and educational partnerships under this part not later than June 30 preceding such fiscal year.

"(c) GRANTS MUST SUPPLEMENT OTHER FUNDS.—A local educational agency receiving Federal funds under this title shall use such Federal funds only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources or under provisions of Federal law other than this title for activities described in part A or part B of this title, as the case may be.

Reports.

"(d) EVALUATION.—The Secretary shall evaluate programs operated with funds received under this title, and shall issue a report at the end of the grant period, but in no case later than January 30, 1991.

"(e) COORDINATION AND DISSEMINATION.—The Secretary shall require local educational agencies receiving grants under this title to cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

"(f) AUDIT.—The Comptroller General shall have access for the purpose of audit and examination to any books, documents, papers, and records of any local educational agency or educational partnership receiving assistance under this title that are pertinent to the sums received and disbursed under this title.

"(g) WITHHOLDING PAYMENTS.—Whenever the Secretary, after reasonable notice and opportunity for a hearing to any local educational agency or educational partnership, finds that the local educational agency or educational partnership has failed to comply substantially with the provisions set forth in its application approved under section 6105 or section 6106, the Secretary shall withhold payments under this title in accordance with section 453 of the General Education Provisions Act until the Secretary is satisfied that there is no longer any failure to comply.

20 USC 3272.

"SEC. 6202. DEFINITIONS.

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"(a) As used in this title—

"(1) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which has a proven record of providing effective educational or related services to individuals in the community.

"(2) The term 'basic skills' includes reading, writing, mathematics, and computational proficiency as well as comprehension and reasoning.

"TITLE VII—BILINGUAL EDUCATION PROGRAMS

Bilingual Education Act

"SEC. 7001. SHORT TITLE. 20 USC 3281

"This title may be cited as the 'Bilingual Education Act'.

"SEC. 7002. POLICY; APPROPRIATIONS. 20 USC 3282

"(a) POLICY.—Recognizing—

"(1) that there are large and growing numbers of children of limited English proficiency;

"(2) that many of such children have a cultural heritage which differs from that of English proficient persons;

"(3) that the Federal Government has a special and continuing obligation to assist in providing equal educational opportunity to limited English proficient children;

"(4) that, regardless of the method of instruction, programs which serve limited English proficient students have the equally important goals of developing academic achievement and English proficiency;

"(5) that the Federal Government has a special and continuing obligation to assist language minority students to acquire the English language proficiency that will enable them to become full and productive members of society;

"(6) that the instructional use and development of a child's non-English native language promotes student self-esteem, subject matter achievement, and English-language acquisition;

"(7) that a primary means by which a child learns is through the use of such child's native language and cultural heritage;

"(8) that, therefore, large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual educational methods and techniques;

"(9) that in some school districts establishment of bilingual education programs may be administratively impractical due to the presence of small numbers of students of a particular native language or because personnel who are qualified to provide bilingual instructional services are unavailable;

"(10) that States and local school districts should be encouraged to determine appropriate curricula for limited English proficient students within their jurisdictions and to develop and implement appropriate instructional programs;

"(11) that children of limited English proficiency have a high dropout rate and low median years of education;

"(12) that the segregation of many groups of limited English proficient students remains a serious problem;

"(13) that reliance on student evaluation procedures which are inappropriate for limited English proficient students have resulted in the disproportionate representation of limited English proficient students in special education, gifted and talented, and other special programs; 102 STAT. 275

"(14) that there is a serious shortage of teachers and educational personnel who are professionally trained and qualified to serve children of limited English proficiency;

"(15) that many schools fail to meet the full instructional needs of limited English proficient students who also may be handicapped or gifted and talented;

"(16) that both limited English proficient children and children whose primary language is English can benefit from bilingual education programs, and that such programs help develop our national linguistic resources and promote our international competitiveness;

"(17) that research, evaluation, and data collection capabilities in the field of bilingual education need to be strengthened so as to better identify and promote those programs and instructional practices which result in effective education;

"(18) that parent and community participation in bilingual

education programs contributes to program effectiveness; and

"(19) that because of limited English proficiency, many adults are not able to participate fully in national life, and that limited English proficient parents are often not able to participate effectively in their children's education,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children and to promote educational excellence (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, (B) to encourage the establishment of special alternative instructional programs for students of limited English proficiency in school districts where the establishment of bilingual education programs is not practicable or for other appropriate reasons, and (C) for those purposes, to provide financial assistance to local educational agencies, and, for certain related purposes, to State educational agencies, institutions of higher education, and community organizations. The programs assisted under this title include programs in elementary and secondary schools as well as related preschool and adult programs which are designed to meet the educational needs of individuals of limited English proficiency, with particular attention to children having the greatest need for such programs. Such programs shall be designed to enable students to achieve full competence in English and to meet school grade-promotion and graduation requirements. Such programs may additionally provide for the development of student competence in a second language.

"(b) AUTHORIZATION.—(1) For the purpose of carrying out the provisions of this title, there are authorized to be appropriated, subject to paragraph (6), $200,000,000 for the fiscal year 1989 and such sums as may be necessary for the fiscal year 1990 and for each succeeding fiscal year ending prior to October 1, 1993.

"(2) There are further authorized to be appropriated to carry out the provisions of section 7032, subject to paragraph (6), such sums as may be necessary for the fiscal year 1989 and each of the 4 succeeding fiscal years.

"(3) From the sums appropriated under paragraph (1) for part A for any fiscal year, the Secretary may reserve not to exceed 25
102 STAT. 276 percent for special alternative instructional programs and related activities authorized under section 7021(a)(3) and may include programs under paragraphs (2), (4), (5), and (6) of section 7021(a).

"(4) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 60 percent for the programs carried out under part A of this title; and of this amount, at least 75 percent shall be reserved for the programs of transitional bilingual education carried out under section 7021(a)(1), and may include programs under paragraphs (2), (4), (5), and (6) of section 7021(a).

"(5) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 25 percent for training activities carried out under part C.

"(6) Notwithstanding paragraphs (1) and (2), no amount in excess of $200,000,000 may be appropriated for the fiscal year 1989 to carry out the provisions of this title (including section 7032).

"(7) The reservation required by paragraph (3) shall not result in changing the terms, conditions, or negotiated levels of any grant awarded in fiscal year 1987 to which section 7021(d)(1)(A), 7021(d)(1)(C), or 7021(d)(2) applies.

20 USC 3283. "SEC. 7003. DEFINITIONS; REGULATIONS.

"(a) GENERAL RULE.—The following definitions shall apply to the terms used in this title:

"(1) The terms 'limited English proficiency' and 'limited English proficient' when used with reference to individuals means—

"(A) individuals who were not born in the United States or whose native language is a language other than English;

"(B) individuals who come from environments where a language other than English is dominant; and

"(C) individuals who are American Indian and Alaska Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency;

and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

"(2) The term 'native language', when used with reference to an individual of limited English proficiency, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

"(3) The term 'low-income' when used with respect to a family means an annual income for such a family which does not exceed the poverty level determined pursuant to section 1005(c)(2) of this Act.

"(4)(A) The term 'program of transitional bilingual education' means a program of instruction, designed for children of limited English proficiency in elementary or secondary schools, which provides, with respect to the years of study to which such program is applicable, structured English language instruction, and, to the extent necessary to allow a child to achieve competence in the English language, instruction in the child's native language. Such instruction shall incorporate the cultural heritage of such children and of other children in American society. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards. 102 STAT. 277

"(B) In order to prevent the segregation of children on the basis of national origin in programs of transitional bilingual education, and in order to broaden the understanding of children about languages and cultural heritages other than their own, a program of transitional bilingual education may include the participation of children whose language is English, but in no event shall the percentage of such children exceed 40 percent. The program may provide for centralization of teacher training and curriculum development, but it shall serve such children in the schools which they normally attend.

"(C) In such courses or subjects of study as art, music, and physical education, a program of transitional bilingual education shall make provision for the participation of children of limited English proficiency in regular classes.

"(D) Children enrolled in a program of transitional bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of transitional bilingual education shall seek to insure that each child is provided with instruction which is appropriate for such child's level of educational attainment.

"(5)(A) The term 'program of developmental bilingual education' means a full-time program of instruction in elementary and secondary schools which provides, with respect to the years of study to which such program is applicable, structured English language instruction and instruction in a second language. Such programs shall be designed to help children achieve competence in English and a second language, while mastering subject matter skills. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

"(B) Where possible, classes in programs of developmental bilingual education shall be comprised of approximately equal numbers of students whose native language is English and limited English proficient students whose native language is the second language of instruction and study in the program.

"(6) The term 'special alternative instructional programs' means programs of instruction designed for children of limited English proficiency in elementary and secondary schools. Such programs are not transitional or developmental bilingual education programs, but have specially designed curricula and are appropriate for the particular linguistic and instructional needs of the children enrolled. Such programs shall provide, with respect to the years of study to which such program is applicable, structured English language instruction and special instructional services which will allow a child to achieve competence in the English language and to meet grade-promotion and graduation standards.

"(7) The term 'family English literacy program' means a program of instruction designed to help limited English proficient adults and out-of-school youth achieve competence in the English language. Such programs of instruction may be conducted exclusively in English or in English and the student's native language. Where appropriate, such programs may include instruction on how parents and family members can facilitate the educational achievement of limited English proficient children. To the extent feasible, preference for participation in such programs shall be accorded to the parents and immediate family members of children enrolled in programs assisted under this title. Such programs of instruction may include instruction designed to enable aliens who are otherwise eligible for temporary resident status under section 245A of the Immigration and Nationality Act to achieve a minimal understanding of ordinary English and a knowledge and understanding of history and government of the United States as required by section 312 of such Act.

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"(8) The term 'programs of academic excellence' means programs of transitional bilingual education, developmental bilingual education, or special alternative instruction (A) which have an established record of providing effective, academically excellent instruction; and (B) which—

"(i) can be used as models for effective schools for limited English proficient students to facilitate the dissemination and use of effective teaching practices for limited English proficient students; or

"(ii) which are designed to serve as models of exemplary bilingual education programs and to facilitate the dissemination of effective bilingual educational practices.

"(9) The term 'Office' means the Office of Bilingual Education and Minority Languages Affairs.

"(10) The term 'Director' means the Director of the Office of Bilingual Education and Minority Languages Affairs.

"(11) The term 'Secretary' means the Secretary of Education.

"(12) The term 'other programs for persons of limited English proficiency' when used in this title means any programs within the Department of Education directly involving bilingual education activities serving persons of limited English proficiency, such as the programs carried out in coordination with the provisions of this title pursuant to part E of title IV of the Carl D. Perkins Vocational Education Act, and section 306(b)(11) of the Adult Education Act, and programs and projects serving individuals of limited English proficiency pursuant to section 6(b)(4) of the Library Services and Construction Act.

"(b) REGULATION REQUIREMENT.—(1) In prescribing regulations under this title, the Secretary shall consult with State and local educational agencies, organizations representing persons of limited English proficiency, and organizations representing teachers and other personnel involved in bilingual education.

"(2) The Secretary shall not prescribe under this title any regulations further defining the terms defined in subsection (a), or any

regulations restricting or expanding the definitions set out in subsection (a).

"(c) SPECIAL INFORMATION RULE.—Parents of children participating in programs assisted under this title shall be informed of the instructional goals of the program and the progress of their children in such program. Every effort shall be made to provide the information to parents pursuant to this subsection in a language and form the parents understand.

"PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

"SEC. 7021. BILINGUAL EDUCATION PROGRAMS.

Grants.
20 USC 3291.

"(a) USES OF FUNDS.—Funds available for grants under this part shall be used for the establishment, operation, and improvement of—

"(1) programs of transitional bilingual education;

"(2) programs of developmental bilingual education;

"(3) special alternative instructional programs for students of limited English proficiency;

"(4) programs of academic excellence;

"(5) family English literacy programs; and

"(6) bilingual preschool, special education, and gifted and talented programs preparatory or supplementary to programs such as those assisted under this Act.

Programs under this subsection may use available funds to provide technology-based instruction to students in order to enhance the program.

"(b) APPLICATIONS.—(1) A grant may be made under subsection (a)(1), (a)(2), or (a)(3) of this section only upon application therefor by 1 or more local educational agencies or by institutions of higher education, including junior or community colleges, applying jointly with 1 or more local educational agencies.

"(2) A grant may be made under subsection (a)(4), (a)(5), or (a)(6) only upon application by one or more local educational agencies; institutions of higher education, including junior or community colleges; or private nonprofit organizations, applying separately or jointly.

"(c) CONTENT OF APPLICATION.—(1) Any application for a grant authorized under subsection (a) of this section shall be made to the Secretary at such time, and in such manner, as the Secretary considers appropriate.

"(2) Applications for grants authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall contain information regarding—

"(A) the number of children enrolled in programs conducted by the local educational agency;

"(B) the number of children residing in the area served by the local educational agency who are enrolled in private schools;

"(C)(i) the number of children enrolled in public and private schools in the area served by the local educational agency who are limited in their English proficiency; (ii) the method used by the applicant to make this determination; and (iii) evidence of the educational condition of the limited English proficient students, such as reading, mathematics, and subject matter test scores, and, where available, data on grade retention rates and student dropout rates;

"(D) the number of limited English proficient children who are enrolled in instructional programs specifically designed to meet their educational needs, as well as descriptions of such programs;

"(E) the number of limited English proficient children enrolled in public or private schools in the area served by the local educational agency who need or could benefit from education programs such as those assisted under this title;

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"(F) the number of children who are to receive instruction through the proposed program and the extent of their educational needs;

"(G) a statement of the applicant's ability to serve children of limited English proficiency, including an assessment of the qualifications of personnel who will participate in the proposed project and of the need for further training of such personnel;

"(H) the resources needed to develop and operate or improve the proposed program;

"(I) the activities which would be undertaken under the grant, including training of educational personnel and parents, and how these activities will improve the educational attainment of students and expand the capacity of the applicant to operate programs such as those assisted under this Act when Federal assistance under this section is no longer available; and

"(J) the specific educational goals of the proposed program and how achievement of these goals will be measured.

"(3) An application for a grant under subsection (a)(3) of this section shall receive priority if the application—

"(A) describes the administrative impracticability of establishing a bilingual education program due to the presence of a small number of students of a particular native language,

"(B) describes the unavailability of personnel qualified to provide bilingual instructional services, or

"(C) is made on behalf of a local educational agency having a small number of limited English proficient students in the schools of such agency that because of isolation or regional location is unable to obtain a native language teacher.

"(4) Applications for grants authorized under subsection (a)(4) shall contain information regarding—

"(A) the number of children served by the existing bilingual education program and evidence of their educational condition prior to enrollment in the program;

"(B) a description of the existing program as well as the educational background and linguistic competencies of program personnel;

"(C) the extent to which the program has promoted student academic achievement as indicated by objective evidence, such as improvements in language, mathematics, and subject matter test scores; grade retention rates; student dropout rates; and, where appropriate, postsecondary education and employment experiences of students;

"(D) the extent of parent involvement in and satisfaction with the existing bilingual education program; and

"(E) how the activities carried out under the grant would utilize and promote programs of academic excellence which employ bilingual education practices, techniques, and methods.

"(5) Applications for grants authorized under subsection (a)(5) shall contain information regarding—

"(A) the number of limited English proficient parents and out-of-school family members of limited English proficient students who would be served by the English literacy program;

"(B) the activities which would be undertaken under the grant and how these activities will promote English literacy and enable parents and family members to assist in the education of

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limited English proficient children;

"(C) the extent to which the persons to be served by the program have been involved in its development;

"(D) applicant's prior experience and performance in providing educational programs to limited English proficient adults and out-of-school youth;

"(E) with respect to applications by a local educational agency, the extent to which limited English proficient students enrolled in the educational agency are served by programs specifically designed to meet their needs; and

"(F) with respect to other applicants, a description of how the applicant will coordinate its program with a local education agency to ensure that the program will help limited English proficient family members promote the academic progress of limited English proficient children.

"(d) DURATION OF GRANTS.—(1)(A) Grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section shall be for 3 years.

"(B) During the first 12 months of grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section, an applicant may engage exclusively in preservice activities. Such activities may include program design, materials development, staff recruitment and training, development of evaluation mechanisms and procedures, and the operation of programs to involve parents in the educational program and to enable parents and family members to assist in the education of limited English proficient children.

"(C) Upon reapplication, grants authorized under subsections (a)(1), (2), and (3) of this section shall be renewed for 2 additional years unless the Secretary determines that—

"(i) the applicant's program does not comply with the requirements set out in this title;

"(ii) the applicant's program has not made substantial progress in achieving the specific educational goals set out in the original application; or

"(iii) there is no longer a need for the applicant's program.

"(D) Parents or legal guardians of students identified for enrollment in bilingual education programs shall be informed of (i) the reasons for the selection of their child as in need of bilingual education, (ii) the alternative educational programs that are available, and (iii) the nature of the bilingual education program and of the instructional alternatives. Parents shall also be informed that they have the option of declining enrollment of their children in such programs and shall be given an opportunity to do so if they so choose. Every effort shall be made to provide the information to parents pursuant to this subsection in a language and form the parents understand.

"(2) Grants made pursuant to subsections (a)(4), (a)(5), and (a)(6) shall be for 3 years.

"(3)(A) No student may be enrolled in a bilingual program for which a grant is made under subsection (a)(1) or (a)(3) of this section for a period of more than 3 years, except where the school in which the student is enrolled—

"(i) conducts a comprehensive evaluation of the overall academic progress of the student, and

"(ii) the results of the evaluation indicate that lack of English proficiency is impeding the academic progress of the student in meeting grade promotion and graduation standards and, in the case of a handicapped child attainment of the objective in the child's individualized education program.

Handicapped persons.

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Any student with respect to whom the requirements of this paragraph are met, may remain in the program for a fourth year, except as provided in division (ii) of subparagraph (B).

"(B)(i) The evaluation required by paragraph (A) shall involve teachers and school personnel familiar with the students' overall academic progress. The results of such an evaluation shall be made available to the parents of the student.

"(ii) An evaluation shall be carried out at the end of the fourth year the student is in the program described in subparagraph (A) if the student is to continue in the program for a fifth year and shall be conducted in accordance with division (i) of this subparagraph.

"(iii) Each evaluation shall indicate how the students' English language development will be addressed during the period a student is retained in the program. The students' academic program during that period shall emphasize mastery of English.

"(C) No student shall remain in a bilingual education program described in subparagraph (A) for more than 5 years.

"(D) In carrying out this title, each local educational agency, institution of higher education, and private nonprofit organization

having an application approved under this section may intensify instruction for limited English proficient students throughout the regular and any supplementary program by—

"(i) expanding the educational calendar of the schools in which such student is enrolled to include programs before and after school and during the summer months;

"(ii) lowering per pupil ratios, including the use of professional and volunteer aides; and

"(iii) the application of technology to the course of instruction.

"(e) APPLICATION REQUIREMENTS.—An application for a grant authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall—

"(1) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of the children to be served in such programs, in accordance with criteria prescribed by the Secretary;

"(2) be accompanied by documentation of such consultation and by the comments which the council makes on the application;

"(3) contain assurances that, after the application has been approved, the applicant will provide for the continuing consultation with, and participation by, the committee of parents, teachers, and other interested individuals which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served;

"(4) ensure applicant support for additional advisory council activities, if support is requested by the advisory council; and

"(5) include evidence that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

"(f) APPROVAL OF APPLICATIONS.—An application for a grant under subsections (a)(1), (a)(2), and (a)(3) of this section may be approved only if the Secretary determines— 102 STAT. 283

"(1) that the program will use qualified personnel, including only those personnel who are proficient in the language or languages used for instruction;

"(2) that in designing the program for which application is made, the needs of the children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public schoolchildren;

"(3) that the program will be evaluated in accordance with a plan that meets the requirements of section 7033 of this title;

Handicapped persons.

"(4) that student evaluation and assessment procedures in the program are appropriate for limited English proficiency students, and that limited English proficient students who are handicapped are identified and served in accordance with the requirements of the Education of the Handicapped Act;

"(5) that Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of those Federal funds, would have been expended for special programs for children of limited English proficiency and in no case to supplant such State and local funds, except that nothing in this paragraph shall—

"(A) preclude a local educational agency from using funds under this title for activities carried out under an order of a

court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children; or

"(B) authorize any priority or preference to be assigned by the Secretary to the funding of the activities under this title;

"(6) that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

"(7) that the applicant will provide or secure training for personnel participating, or preparing to participate, in the program which will assist them to meet State and local certification requirements and that, to the extent possible, college or university credit will be awarded for such training; and

"(8) that the provision of assistance proposed in the application is consistent with criteria established by the Secretary, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, taking into consideration— 102 STAT. 284

"(A) the geographic distribution of children of limited English proficiency;

"(B) the relative need of persons in different geographic areas within the State for the kinds of services and activities authorized under this title;

"(C) the relative ability of applicant local educational agencies within the State to provide needed services and activities; and

"(D) the relative numbers of persons from low-income families who would benefit from the applicants' programs; and Disadvantaged persons.

"(9) that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

"(g) PRIORITY CONSIDERATION OF GRANTS.—An application for a grant under subsection (a)(3) of this section may receive priority based upon the information provided by the applicant pursuant to clause (A), (B), or (C) of subsection (c)(3) of this section.

"(h) PRIORITY FOR PROGRAMS SERVING UNDERSERVED CHILDREN.—In the consideration of applications from local educational agencies to carry out programs authorized under this section, the Secretary shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to assist children of limited English proficiency who have historically been underserved by programs of bilingual education, taking into consideration the relative numbers of such children in the schools of such local educational agencies and the relative need for such programs. In approving such applications, the Secretary shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families who would benefit from such programs.

"(i) LIMITATION ON THE ASSIGNMENT OF STUDENTS.—No action taken may involve the admission or exclusion of students to or from any federally assisted education programs merely on the basis of the surnames of such students.

"(j) PROGRAMS IN PUERTO RICO.—Programs authorized under this title in the Commonwealth of Puerto Rico may, notwithstanding any

other provision of this title, include programs of instruction, teacher training, curriculum development, research, evaluation, and testing designed to improve the English proficiency of children, and may also make provision for serving the needs of students of limited proficiency in Spanish.

"(k) BYPASS PROVISION.—If the Secretary determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children of limited English proficiency enrolled in nonprofit, private schools, as required by subsection (f)(2) of this section, the Secretary shall—

"(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements; or

"(2) reduce the amount of the grant to such applicant by the amount which is required for the Secretary to arrange (such as through a contract with a nonprofit, nonsectarian agency, organization, or institution) to assess the needs of the children in the area to be served for programs of the type authorized in this title and to carry out such programs for the children.

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20 USC 3292.

"SEC. 7022. INDIAN CHILDREN IN SCHOOLS.

Alaska.

"(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this title for individuals served by elementary, secondary, or postsecondary schools operated predominantly for Indian or Alaskan Native children, an Indian tribe or a tribally sanctioned educational authority may be considered to be a local educational agency as such term is used in this title, subject to the following qualifications:

"(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (85 Stat. 688) which is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) The term 'tribally sanctioned educational authority' means any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe, as well as any nonprofit institution or organization which is chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee delivery of educational services to members of that tribe and which is approved by the Secretary for the purposes of this section.

"(b) BUREAU OF INDIAN AFFAIRS SCHOOLS.—From the sums appropriated pursuant to section 7002(b), the Secretary is authorized to make payments to the applicants to carry out programs of bilingual education for Indian children on reservations served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

"(c) ANNUAL REPORT.—The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Secretary by September 30 of each year an annual report which provides—

"(1) an assessment of the needs of the Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.); and

"(2) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

"PART B—DATA COLLECTION, EVALUATION, AND RESEARCH

"SEC. 7031. USE OF FUNDS.

20 USC 3301.

"Funds available under this part shall be used for (1) collecting data on the number of limited English proficient persons and the educational services available to such persons, (2) evaluating the operation and effectiveness of programs assisted under this title, (3) conducting research to improve the effectiveness of bilingual education programs, and (4) collecting, analyzing, and disseminating data and information on bilingual education.

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"SEC. 7032. GRANTS FOR STATE PROGRAMS.

20 USC 3302.

"(a) DATA COLLECTION AND DISSEMINATION.—Upon application from a State educational agency, the Secretary shall make provision for the submission and approval of a State program for the collection, aggregation, analysis, and publication of data and information on the State's population of limited English proficient persons and the educational services provided or available to such persons.

"(b) REPORT TO SECRETARY.—State programs under this part shall provide for the annual submission of a report to the Secretary containing data and information on such matters as the Secretary shall, by regulation, determine necessary and proper to achieve the purposes of this title, including the matters specified in section 7021(c)(2). Such reports shall be in such form and shall be submitted on such date as the Secretary shall specify by regulation. State programs shall provide for the dissemination of information regarding these matters to the public, and particularly to persons of limited English proficiency.

Regulations.
Public information.

"(c) OTHER USES OF FUNDS.—State programs authorized under this section may also provide for—

"(1) the planning and development of educational programs such as those assisted under this title;

"(2) the review and evaluation of programs of bilingual education, including bilingual education programs that are not funded under this title;

"(3) the provision, coordination, or supervision of technical and other forms of nonfinancial assistance to local educational agencies, community organizations, and private elementary and secondary schools that serve limited English proficient persons;

"(4) the development and administration of instruments and procedures for the assessment of the educational needs and competencies of persons of limited English proficiency;

"(5) the training of State and local educational agency staff to carry out the purposes of this title; and

"(6) other activities and services designed to build the capacity of State and local educational agencies to serve the educational needs of persons of limited English proficiency.

"(d) PAYMENTS.—Except as provided in the second sentence of this subparagraph, the Secretary shall pay from the amounts appropriated for the purposes of this section pursuant to section 7002(b)(2) for each fiscal year to each State educational agency which has a State program submitted and approved under subsection (a) of this section such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Secretary to any State educational agency under the preceding sentence for any fiscal year may not be less than $75,000 nor greater than 5 percent of the aggregate of the amounts paid under section 7021 for programs within such State in the fiscal year preceding the fiscal year to which this limitation applies.

"(e) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

Regulations.
20 USC 3303.

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"SEC. 7033. PROGRAM EVALUATION REQUIREMENTS.

"The Secretary shall issue, within 6 months of the date of enactment of this section, regulations which set forth a comprehensive design for evaluating the programs assisted under part A of this title. Such regulations shall be developed by the Director in consultation with State directors of bilingual education programs, the evaluation assistance centers authorized in section 7034, and individuals and organizations with expertise in testing and evaluation of educational programs for children of limited English proficiency. Such regulations shall provide for the collection of information and data including—

"(1) the educational background, needs, and competencies of the limited English proficient persons served by the program;

"(2) the specific educational activities undertaken pursuant to the program; the pedagogical materials, methods, and techniques utilized in the program; and, with respect to classroom activities, the relative amount of instructional time spent with students on specified tasks;

"(3) the educational and professional qualifications, including language competencies, of the staff responsible for planning and operating the program;

"(4) the specific activities undertaken to improve prereferral, evaluation procedures and instructional programs for limited English proficient children who may be handicapped or gifted and talented; and

"(5) the extent of educational progress achieved through the program measured, as appropriate, by (A) tests of academic achievement in English language arts, and where appropriate, second language arts; (B) tests of academic achievement in subject matter areas; and (C) changes in the rate of student grade-retention, dropout, absenteeism, placement in programs for the gifted and talented, and enrollment in postsecondary education institutions.

Grants.
20 USC 3304.

"SEC. 7034. EVALUATION ASSISTANCE CENTERS.

"The Secretary shall establish, through competitive grants to institutions of higher education, at least 2 evaluation assistance centers. Such centers shall provide, upon the request of State or local educational agencies, technical assistance regarding methods and techniques for identifying the educational needs and competencies of limited English proficient persons and assessing the educational progress achieved through programs such as those assisted under this title. Grants made pursuant to this section shall be for a period of 3 years.

20 USC 3305.

"SEC. 7035. RESEARCH.

Contracts.

"(a) RESEARCH AND DEVELOPMENT.—The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

"(b) AUTHORIZED ACTIVITIES.—Research activities authorized to be assisted under this section shall include—

"(1) studies to determine and evaluate effective models for bilingual education programs;

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"(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

"(3) longitudinal studies to measure the effect of this title on students enrolled in title VII programs (including a longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under this title and which

provides information including data on grade retention, academic performance, and dropout rates);

"(4) studies to determine effective and reliable methods for identifying students who are entitled to services under this title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

"(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

"(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

"(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

"(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students;

"(9) studies to determine effective and reliable techniques for providing bilingual education to handicapped students;

"(10) studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English; and

"(11) the effect of this title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title.

"(c) CONSULTATION AND DELEGATION OF AUTHORITY.—In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

"(d) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under this title.

"(e) LIMITATION OF AUTHORITY.—Nothing in this title shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.

"SEC. 7036. COORDINATION OF RESEARCH. 20 USC 3306.

"Notwithstanding section 405(b)(1) of the General Education Provisions Act, the Assistant Secretary for Educational Research and Improvement shall consult with the Director, the Committee on 102 STAT. 289
Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives to ensure that research activities undertaken pursuant to section 405(b)(2)(C) of the General Education Provisions Act complement and do not duplicate the activities conducted pursuant to this part.

"SEC. 7037. EDUCATION STATISTICS. 20 USC 3307.

"(a) DATA COLLECTION.—Notwithstanding section 406 of the General Education Provisions Act, the National Center for Education Statistics shall collect and publish, as part of its annual report on the condition of education, data for States, the Commonwealth of Puerto Rico, and the trust territories with respect to the population of limited English proficient persons, the special educational services and programs available to limited English proficient persons, and the availability of educational personnel qualified to provide special educational services and programs to limited English proficient persons.

"(b) USE OF DATA.—In carrying out its responsibilities under this section, the National Center for Education Statistics shall utilize, to the extent feasible, data submitted to the Department of Education

by State and local educational agencies and institutions of higher education pursuant to the provisions of this title as well as data collected on limited English proficient persons by other Federal agencies.

"PART C—TRAINING AND TECHNICAL ASSISTANCE

20 USC 3321.

"SEC. 7041. USE OF FUNDS.

"(a) USE OF FUNDS.—Funds available under this part shall be used for—

"(1) the establishment, operation, and improvement of training programs for educational personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education or special alternative instructional programs for limited English proficient students, which shall emphasize opportunities for career development, advancement, and lateral mobility, and may provide training to teachers, administrators, counselors, paraprofessionals, teacher aides, and parents;

"(2) the training of persons to teach and counsel such persons;

"(3) the encouragement of reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school faculties, as related to bilingual education;

"(4) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education or special alternative instructional programs for limited English proficient students; which may include summer programs designed to improve the instructional competence of educational personnel in the languages used in the program; and

"(5) the provision of inservice training and technical assistance to parents and educational personnel participating in, or preparing to participate in, bilingual education programs or special alternative instructional programs for limited English proficient students.

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Grants.
Contracts.

"(b) APPLICATIONS.—(1) A grant or contract may be made under subsection (a)(1), (a)(2), or (a)(3) of this section upon application of an institution of higher education.

"(2) A grant or contract may be made under subsection (a)(4) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges) and private for-profit or nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency; (B) local educational agencies; or (C) a State educational agency.

"(3) A grant or contract may be made under subsection (a)(5) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges), (B) private for-profit or nonprofit organizations, or (C) a State educational agency.

"(c) APPLICATION REQUIREMENT FOR TRAINING PROGRAMS.—An application for a grant or contract for preservice or inservice training activities described in subsection (a)(1) of this section shall be developed in consultation with an advisory council composed of representatives of State and local educational agencies within the applicant's service area or geographic region which operate programs of bilingual education or special alternative instruction for limited English proficient students.

"(d) TRAINING PROGRAM REQUIREMENTS.—A preservice or inservice training program funded under subsection (a)(1) shall assist educational personnel in meeting State and local certification requirements, and, whenever possible, should award college or university credit.

Grants.
Contracts.

"(e) PREFERENCE IN ASSISTANCE AND PURPOSE OF TRAINING.—(1) In making a grant or contract for preservice training programs de-

scribed in subsection (a)(1) of this section, the Secretary shall give preference to programs which contain coursework in—

"(A) teaching English as a second language;

"(B) use of a non-English language for instructional purposes;

"(C) linguistics; and

"(D) evaluation and assessment;

and which involve parents in the educational process.

"(2) Preservice training programs shall be designed to ensure that participants become proficient in English and a second language of instruction.

"SEC. 7042. MULTIFUNCTIONAL RESOURCE CENTERS. 20 USC 3322.

"(a) ESTABLISHMENT.—Pursuant to subsection (a)(5) of section 7041, the Secretary shall establish, through competitive grants or contracts, at least 16 multifunctional resource centers (hereafter in this section referred to as 'centers'). Grants and contracts shall be awarded with consideration given to the geographic and linguistic distribution of children of limited English proficiency. Grants. Contracts.

"(b) REQUIRED SERVICES.—In addition to providing technical assistance and training to persons participating in or preparing to participate in bilingual education programs or special alternative instructional programs for limited English proficient students, each center shall be responsible for gathering and providing information to other centers on a particular area of bilingual education, including (but not limited to) bilingual special education, bilingual education for gifted and talented limited English proficient students, bilingual vocational education, bilingual adult education, bilingual education program administration, literacy, education technology in bilingual programs, mathematics and science education in bilingual programs, counseling limited English proficient students, and career education programs for limited English proficient students.

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"SEC. 7043. FELLOWSHIPS. 20 USC 3323.

"(a) AUTHORIZATION.—Pursuant to subsection (a)(2) of section 7041, the Secretary is authorized to award fellowships for advanced study of bilingual education or special alternative instructional programs for limited English proficient students in such areas as teacher training, program administration, research and evaluation, and curriculum development. For fiscal year 1989 and each of the 4 subsequent fiscal years, not less than 500 fellowships leading to a masters or doctorate degree shall be awarded under the preceding sentence. Such fellowships shall be awarded, to the extent feasible, in proportion to the needs of various groups of individuals with limited English proficiency. In awarding fellowships, the Secretary shall give preference to individuals intending to study bilingual education or special alternative instructional programs for limited English proficient students in the following specialized areas: vocational education, adult education, gifted and talented education, special education, education technology, literacy, and mathematics and science education. The Secretary shall include information on the operation of the fellowship program in the report required under section 7051(c) of this title.

"(b) FELLOWSHIP REQUIREMENTS.—Any person receiving a fellowship under this section shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to programs and activities such as those authorized under this Act. The Secretary may waive this requirement in extraordinary circumstances.

"SEC. 7044. PRIORITY.

"In making grants or contracts under this part, the Secretary shall give priority to eligible applicants with demonstrated competence and experience in programs and activities such as those authorized under this Act. Grants. Contracts. 20 USC 3324.

20 USC 3325.

"SEC. 7045. STIPENDS.

"In the terms of any arrangement described in this part, the Secretary shall provide for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

"PART D—ADMINISTRATION

20 USC 3331.

"SEC. 7051. OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS.

"(a) ESTABLISHMENT.—There shall be, in the Department of Education, an Office of Bilingual Education and Minority Languages Affairs (hereafter in this section referred to as the 'Office') through which the Secretary shall carry out functions relating to bilingual education.

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"(b) DIRECTOR.—(1) The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Secretary.

"(2) The Office shall be organized as the Director determines to be appropriate in order to enable the Director to carry out such functions and responsibilities effectively, except that there shall be a division, within the Office, which is exclusively responsible for the collection, aggregation, analysis, and publication of data and information on the operation and effectiveness of programs assisted under this title.

Reports.

"(3) The Director shall prepare and, not later than February 1 of each year, shall submit to Congress and the President a report on—

"(A) the grants and contracts made pursuant to this title in the preceding fiscal year;

"(B) the number of individuals benefiting from the programs assisted under this title;

"(C) the evaluation of activities carried out under this title during the preceding 2 fiscal years and the extent to which each of such activities achieves the policy set forth in section 7002(a);

"(D) an estimate of the number of fellowships in the field of training teachers for bilingual education which will be necessary for the 2 succeeding fiscal years; and

"(E) the research activities carried out under such title during the preceding 2 fiscal years and the major findings of research studies.

"(c) COORDINATION WITH RELATED PROGRAMS.—In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs administered by the Department of Education, including such areas as teacher training, program content, research, and curriculum. The Secretary's report under section 6213 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 shall include demonstration that such coordination has taken place.

"(d) STAFFING REQUIREMENT.—The Secretary shall ensure that the Office of Bilingual Education and Minority Language Affairs is staffed with sufficient personnel trained, or with experience in, bilingual education to discharge effectively the provisions of this title.

"(e) READING AND SCORING APPLICATIONS.—For the purpose of reading and scoring applications for competitive grants authorized

under parts A and C of this title, the Secretary shall use persons who are not otherwise employed by the Federal Government and who are experienced and involved in educational programs similar to those assisted under parts A and C of this title. The Secretary shall solicit nominations for application readers from State directors of bilingual education and may use funds appropriated for parts A and C of this title to pay for the application reading and scoring services required by this provision.

"SEC. 7052. LIMITATION OF AUTHORITY. 20 USC 3332.

"The Secretary shall not impose restrictions on the availability or use of funds authorized under this title other than those set out in this title or other applicable Federal statutes and regulations.

"PART E—TRANSITION

"SEC. 7063. TRANSITION. 20 USC 3341.

"This title shall not apply to grants and contracts entered into under the Bilingual Education Act as in effect before October 1, 1988.".

SEC. 1002. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Sections 1001 through 1004, and 1006 of the Elementary and Secondary Education Act of 1965 are redesignated as sections 8001 through 8005, respectively. 20 USC 3381–3384, 3386.

(b) SPECIAL DEFINITION RULE.—Section 8001 of such Act (as redesignated by subsection (a) of this section) is amended to read as follows:

"DEFINITIONS

"SEC. 8001. Except as otherwise provided, the terms used in this Act have the same meanings provided in section 1471 of this Act." 20 USC 3381.

SEC. 1003. REPEALS.

(a) EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981.—The Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.) is repealed.

(b) ELLENDER PROGRAM.—The joint resolution of October 19, 1972 (Public Law 92-506) is repealed.

(c) IMMIGRANT EDUCATION.—Title VI of the Education Amendments of 1984 (20 U.S.C. 4101 et seq.) is repealed.

(d) TERRITORIAL ASSISTANCE.—Sections 1524 and 1525 of the Education Amendments of 1978 are repealed.

(e) ANTI-DRUG ABUSE ACT OF 1986.—Subtitle B of title IV of the Anti-Drug Abuse Act of 1986 (Public Law 99-570) is repealed. 20 USC 4601 *et seq.*

SEC. 1004. SPECIAL RULE ON SCHOOL DROPOUT DEMONSTRATION PROGRAM. 20 USC 3245 note.

The provisions of section 6005(c) of the Elementary and Secondary Education Act of 1965 (as added by section 1001 of this Act) shall apply to funds appropriated for the fiscal year 1988 for the dropout demonstration program.

TITLE II—AMENDMENTS TO OTHER EDUCATION PROGRAMS

PART A—IMPACT AID PROGRAM

SEC. 2001. SHORT TITLE. Impact Aid Reauthorization Act of 1988. 20 USC 236 note.

This part may be cited as the "Impact Aid Reauthorization Act of 1988".

SEC. 2011. ADMINISTRATIVE AMENDMENTS.

(a) GENERAL RULE.—(1) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (hereafter referred to in this subpart as the "Act") is amended by striking out "the Commissioner" each time it appears and inserting in lieu thereof "the Secretary".

20 USC 236 *et seq.*

(2) Section 5(b)(3)(C)(vii) of the Act is amended by striking out "Commissioner's" and inserting in lieu thereof "Secretary's".

20 USC 240.

(3) Section 403(9) of the Act is amended to read as follows:

20 USC 244.

"(9) The term 'Secretary' means the Secretary of Education.".

(b) SPECIAL RULES.—(1) Section 7(c)(1) of the Act is amended by striking out "Labor and Public Welfare" and inserting in lieu thereof "Labor and Human Resources".

20 USC 241-1.

(2) The last sentence of section 7(d) of the Act is amended to read as follows: "The Secretary shall complete action of approval or disapproval of an application within 90 days of the filing of an application.".

SEC. 2012. REAUTHORIZATION.

(a) EXTENSION OF PROGRAM.—The Act is amended by striking out "October 1, 1988" each place it appears in sections 2(a), 3(b), 4(a), and 7(a)(1) and inserting in lieu thereof "October 1, 1993".

20 USC 237-239, 241-1.

(b) AUTHORIZATION OF APPROPRIATIONS.—The first section of the Act is amended—

20 USC 236.

(1) by inserting "(a)" after "Section 1."; and

(2) by adding at the end thereof the following:

"(b) There are authorized to be appropriated $735,000,000 for fiscal year 1989, $785,000,000 for fiscal year 1990, $835,000,000 for fiscal year 1991, $885,000,000 for fiscal year 1992, and $935,000,000 for fiscal year 1993, to carry out the provisions of this Act.".

Taxes.

SEC. 2013. FEDERAL ACQUISITION OF REAL PROPERTY.

Section 2(a) of the Act is amended by adding at the end of such subsection the following: "In making the determination of the amount that would have been derived in such year, the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies or imputed for fiscally dependent local educational agencies to the current annually determined aggregate assessed value of such acquired Federal property.".

SEC. 2014. ENTITLEMENTS AND PAYMENTS.

(a) AMOUNT FOR SECTION 3(a) CHILDREN.—Section 3(d)(1)(A) of the Act is amended to read as follows:

"(A) in the case of any local educational agency with respect to which the number of children is determined under subsection (a) an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the product obtained with respect to such agency under subparagraph (B); and".

(b) AMOUNT FOR OTHER CHILDREN.—Section 3(d)(1)(B) of the Act is amended to read as follows:

"(B) in any other case, an amount equal to 25 per centum of the local contribution rate multiplied by the number of children determined with respect to such agency for such fiscal year under subsection (b).".

20 USC 238.

(c) SPECIAL RULES.—(1) Section 3(d)(2)(B)(i) of the Act is amended to read as follows:

"(i) the amount of payment resulting from paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and from other sections of this title, determined in accordance with subparagraph (E), is less than the amount necessary to enable such agency to provide a level of education equivalent to the State average during the preceding fiscal year or to the average

of that maintained during the preceding fiscal year in three or more of the school districts of the State which are generally comparable to the school district of such agency, whichever is higher, increased or decreased, as the case may be, in the same percentage as the cost of such level of education increased or decreased from the second preceding fiscal year to the prior fiscal year;".

(2) Section 3(d)(2)(B) of the Act is amended by inserting after the first sentence the following new sentences: "The increase computed under this subparagraph shall be sufficient to allow the school district of the local educational agency to provide a level of education (calculated in accordance with this subparagraph) equal to the average of the three comparable districts in the State or the State average, whichever is greater, as described in clause (i). For the purpose of clause (ii), the Secretary shall determine that a reasonable tax effort has been made if the tax rate of the agency in the year for which the determination is made is an amount that is at least equal to 80 percent of the average tax rate for general fund purposes of comparable school districts for such fiscal year. Coterminous military districts shall be deemed to meet the requirement of such reasonable tax effort. Except for coterminous military districts, payments made to any agency under this subparagraph in any fiscal year shall be reduced by the percentage that the average tax rate for operational purposes of the comparable school districts or, if none, the State average tax rate, exceeds the tax rate of such agency.". Taxes.

(3) Section 3(d)(2)(E) of the Act is amended to read as follows:

"(E) For the purpose of subparagraph (B)(i) of this paragraph—

"(i) available funds may not include any cash balance at the end of a year allowed under State law; or

"(ii) whenever no State law governing cash balance exists, available funds may not include 30 percent of the local educational agency's operating costs.".

(d) DISTRICTS WITH UNUSUAL GEOGRAPHIC FACTORS.—(1) Section 3(d)(3)(B)(ii) of the Act is amended by striking out "is authorized to" and inserting in lieu thereof "shall".

(2) Section 3(d)(3)(B)(ii) of the Act is amended by adding at the end thereof the following new sentence: "The amount of any such supplementary payment may not exceed the per pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographical factors.".

(e) COTERMINOUS AGENCY RULE.—Section 3(h) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following: 102 STAT. 296

"(2) For the fiscal year beginning October 1, 1987, and for each year thereafter, the local contribution rate for coterminous local educational agencies under paragraph (1) shall be not less than 70 per centum of the average per pupil expenditure in all States during the second preceding year prior to the fiscal year for which the determination is made unless such payment would raise the per pupil expenditure above the average for that State. Whenever the preceding sentence applies, the local contribution rate may not be less than the amount necessary to raise the per pupil expenditure for that district to the average per pupil expenditure for the State in which such agency is located. The first 2 sentences of this paragraph shall not apply for local educational agencies in any State in which the State equalization law would prohibit the local educational agency from retaining such additional funds or in which State law would require that the State contribution would be reduced in proportion to such additional funds. The local contribution rate for local educational agencies under this paragraph may not be less than 50 per centum of the average per pupil expenditure in all States during the second preceding fiscal year prior to the fiscal year for which the determination is made.".

SEC. 2015. METHOD OF PAYMENT.

20 USC 240.

(a) ROUNDING OF PAYMENTS.—The first sentence of section 5(b) of the Act is amended by inserting after "agency" a comma and the following: "rounded to the nearest whole dollar,".

(b) DISPOSITION OF RECOVERED FUNDS.—Section 5(b) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following sentence: "The Secretary shall return to the United States Treasury any funds appropriated for payments under this title for fiscal years 1988 and thereafter that, as the result of overpayments or unallowable expenditures, are recovered by the Department of Education after the end of the fifth fiscal year following the end of the fiscal year for which the sums were appropriated, or that remain in Department of Education accounts after that time.".

(c) PRELIMINARY PAYMENTS.—Section 5(b)(2) of the Act is amended to read as follows:

"(2) As soon as possible after the beginning of any fiscal year, the Secretary shall, on the basis of a written request for a preliminary payment from any local educational agency that was eligible for a payment for the preceding fiscal year on the basis of entitlements established under section 2 or 3, make such a preliminary payment—

"(A) to any agency for whom the number of children determined under section 3(a) amounts to at least 20 per centum of such agency's total average daily attendance, of 75 per centum of the amount that such agency received for such preceding fiscal year on the basis of such entitlements; and

"(B) to any other agency, of 50 per centum of the amount that such agency received for such preceding fiscal year on the basis of such entitlements.".

(d) GENERAL RULE ON PAYMENTS.—Section 5(c)(1) of the Act is amended to read as follows:

"(1)(A) The Secretary shall first allocate to each local educational agency which is entitled to a payment under section 2 an amount equal to 100 per centum of the amount to which it is entitled as computed under that section for such fiscal year and to each local educational agency an amount equal to the supplemental 50 per centum of the entitlement that each child described in section 3(d)(2)(C) served by such agency is eligible to receive under section 3(d)(2)(C).

102 STAT. 297

"(B) The Secretary shall then allocate to any local educational agency which is eligible under section 3(d)(2)(B) an amount equal to 100 per centum of the amount to which such agency is entitled under sections 3(a) and 3(b).

"(C) The Secretary shall reserve from the remainder of the sums appropriated for this Act (other than amounts needed for section 7) for such fiscal year—

"(i) 80 per centum for the purpose of allocating sums under paragraph (2) for entitlements determined under section 3(a); and

"(ii) 20 per centum for the purpose of allocating sums under paragraph (3) for entitlements determined under section 3(b).".

20 USC 240.

(e) ALLOCATION OF PAYMENTS RULE.—(1) Section 5(c)(2) of the Act is amended to read as follows:

"(2)(A) For the purpose of allocating sums available for section 3(a) for any fiscal year which remain after the allocation required by paragraph (1) and any allocation required by sections 5(e) and 3(h) for such fiscal year, the Secretary shall determine the category to which a local educational agency belongs as follows:

"(i) Each local educational agency in which the number of children determined under section 3(a) amounts to at least 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (i).

"(ii) Each local educational agency in which the number of children determined under section 3(a) amounts to at least 15 per centum, but less than 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (ii).

"(iii) Each local educational agency in which the number of children determined under section 3(a) amounts to less than 15 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (iii).

"(B) The Secretary shall allocate the amounts described in subparagraph (A) according to the following schedule:

"(i) A first allocation shall be made as follows:

"(I) 80 per centum of entitlement to local educational agencies described in category (i);

"(II) 60 per centum of entitlement to local educational agencies described in category (ii); and

"(III) 40 per centum of entitlement to local educational agencies described in category (iii).

"(ii) Any sums remaining after the allocation pursuant to clause (i) shall be allocated as follows:

"(I) 20 per centum of entitlement to local educational agencies described in category (i);

"(II) 15 per centum of entitlement to local educational agencies described in category (ii); and

"(III) 10 per centum of entitlement to local educational agencies described in category (iii).

"(iii) Any sums remaining after the allocation pursuant to clause (ii) shall be allocated as follows:

"(I) 25 per centum of entitlement to local educational agencies described in category (ii); and

"(II) 50 per centum of entitlement to local educational agencies described in category (iii).

"(3)(A) For the purpose of allocating sums available for section 3(b) for any fiscal year which remain after the allocation required by paragraph (1) and any allocation required by sections 5(e) and 3(h) for such fiscal year, the Secretary shall determine the category to which a local educational agency belongs as follows:

"(i) Each local educational agency in which the number of children determined under section 3(b) amounts to at least 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (i).

"(ii) Each local educational agency in which the number of children determined under section 3(b) amounts to less than 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (ii).

"(B) The Secretary shall allocate the amounts described in subparagraph (A) according to the following schedule:

"(i) A first allocation shall be made as follows:

"(I) 20 per centum of entitlement to local educational agencies described in category (i); and

"(II) 10 per centum of entitlement to local educational agencies described in category (ii).

"(ii) Any sums remaining after the allocation pursuant to clause (i) shall be allocated as follows:

"(I) 30 per centum of entitlement to local educational agencies described in category (i); and

"(II) 5 per centum of entitlement to local educational agencies described in category (ii).

"(iii) Any sums remaining after the allocation pursuant to clause (ii) shall be allocated as follows:

"(I) 50 per centum of entitlement to local educational agencies described in category (i); and

"(II) 85 per centum of entitlement to local educational agencies described in category (ii).

"(4) Whenever the additional amounts described in paragraphs (2)(A) and (3)(A) in each fiscal year are insufficient to provide the required percent of entitlement to each local educational agency under clause (ii) or (iii) of paragraph (2)(B), or clause (ii) or (iii) of paragraph (3)(B), respectively, the full amount which local educational agencies are entitled to receive under such clauses shall be ratably reduced. If additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.".

20 USC 240. (2)(A) Section 5(c)(3) of the Act is repealed.

(B) The sentence following paragraph (2) of section 5(c) (as
102 STAT. 299 amended by subparagraph (A)) is amended by striking out "or (3)".

20 USC 240. (C) The last sentence of section 5(c) of the Act is repealed.

(f) STATE AID RULE.—Section 5(d)(2)(A) of the Act is amended by inserting after the first sentence the following flush sentence: "The increase in payments described in sections 3(d)(2)(B), 3(d)(2)(C), 3(d)(2)(D), and 3(d)(3)(B)(ii) shall not be taken into consideration by the State for the purpose of this subparagraph.".

(g) HOLD HARMLESS RULES.—Section 5(e) of the Act is amended to read as follows:

"(e)(1)(A) For any fiscal year after September 30, 1988, the Secretary shall allocate to any local educational agency which received a payment under section 3(a) in fiscal year 1987, an amount which is not less than the product of 100 per centum of the per pupil amount paid to such agency in fiscal year 1987 and the number of such children in average daily attendance for the fiscal year for which the determination is made under such subsection.

"(B) For any fiscal year beginning after September 30, 1988, the Secretary shall allocate to any local educational agency which received a payment under section 3(b) in fiscal year 1987 for children described in section 5(c)(3)(A)(i), an amount which is not less than the product of 100 per centum of the per pupil amount paid to such agency in fiscal year 1987 and the number of such children in average daily attendance in the fiscal year for which such determination is made.

"(C) The provisions of subparagraphs (A) and (B) of this paragraph shall not apply to any local educational agency for which the factor in the determination of the local contribution rate described in section 3(d)(3)(A)(i) in the year for which the determination is made is less than the amount for such factor for fiscal year 1987.

"(D) The Secretary is authorized to modify the per pupil amount described in subparagraph (A) of this paragraph, in any case in which, in the fiscal year for which the determination is made a local educational agency is no longer an agency described in section 5(c)(2)(A)(i), or section 5(c)(2)(A)(ii), but is an agency described in section 5(c)(2)(A)(ii) or section 5(c)(2)(A)(iii), as the case may be.

"(E) The provisions of subparagraph (B) of this paragraph shall not apply to any local educational agency which, in the fiscal year for which the determination is made, is not a local educational agency described in section 5(c)(3)(A)(i).

"(2) If sums appropriated for any fiscal year for making payments under this section are not sufficient to pay in full the amount to which each local educational agency is entitled under the previous paragraph, such amounts shall be ratably reduced.

"(3) In no event shall the amount allocated to any local educational agency in any fiscal year under paragraph (1) exceed the amount received by such agency in the fiscal year 1987.".

SEC. 2016. CHILDREN FOR WHOM LOCAL AGENCY IS UNABLE TO PROVIDE EDUCATION.

20 USC 241. Section 6 of the Act is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of law, a local educational agency receiving funds under section 3 may also receive funds under section 6.".

SEC. 2017. DISASTER ASSISTANCE.

(a) GENERAL RULE.—Section 7(a)(1) of the Act is amended— 20 USC 241-1.
(1) by striking out subparagraph (B); 102 STAT. 300
(2) by striking out "or" at the end of subparagraph (A) and inserting in lieu thereof "and"; and
(3) by striking out the subparagraph designation "(A)".

(b) ELIGIBILITY.—Section 7(a)(3) of the Act is amended by striking out "$1,000 or one-half of 1 per centum" and inserting in lieu thereof "$10,000 or 5 per centum". 20 USC 241-1.

(c) AVAILABILITY OF FUNDS.—Section 7 of the Act is amended by adding at the end thereof the following new subsection (f):

"(f) Funds available for this section for any fiscal year shall also be available for section 16 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress).".

SEC. 2018. TREATMENT OF CHILDREN RESIDING ON PROPERTY ASSISTED UNDER SECTION 8 OF THE UNITED STATES HOUSING ACT OF 1937. 20 USC 238 note.

(a) GENERAL RULE.—Notwithstanding any other provision of law, for fiscal years prior to fiscal year 1989, applicants may claim and receive payments under section 3 of Public Law 81-874 on behalf of children residing in or whose parents are employed on property assisted under section 8 of the United States Housing Act of 1937, if such property was claimed by such applicants and such payments were received for the previous fiscal year. Claims.

(b) SPECIAL RULE.—Payments made to any local educational agency under section 3(b) of the Act for fiscal years prior to fiscal year 1989, on behalf of children who reside on or whose parents are employed on property that is housing assisted under section 8 of the United States Housing Act of 1937, shall stand, and such payments withheld or recovered shall be made or restored.

SEC. 2019. CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY.

Section 3(d)(2)(D) of the Act of September 30, 1950 (20 U.S.C. 236, Public Law 81-874) is amended by adding at the end thereof the following: "Funds received under this section may be used to pay tuition for any student not eligible for funding under section 1128 of Public Law 95-561 in any school receiving funding under such section. No condition involving program or personnel shall apply to any such payments.". 20 USC 238.

SEC. 2020. REGULATION REQUIREMENTS. 20 USC 236 note.

No regulations may be established to carry out the provisions of this Act unless such regulations will become final only after a period for comment which is not less than 90 days. No provision of the regulations may have a retroactive effect which results in the recovery of assistance by the United States (other than such recovery based on regulations in effect at the time the assistance was made). To the extent that the provisions of section 431 of the General Education Provisions Act are not inconsistent with the provisions of this section, the provisions of section 431 shall apply to regulations established under this Act.

SEC. 2021. DEFINITION.

Section 403(5) of the Act is amended by striking out "under title I, II, or III" and inserting in lieu thereof "under chapter 1 or 2 of title I". 20 USC 244.

102 STAT. 301

Subpart 2—Public Law 815

SEC. 2031. REAUTHORIZATION.

(a) EXTENSION OF PROGRAM.—The Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended—

20 USC 633. (1) in section 3 by striking "1988" and inserting "1993";

20 USC 646. (2) in section 16(a)(1)(A) by striking "1988," and inserting "1993,"; and

20 USC 645. (3) in paragraph (15) of section 15 by striking "1978-1979" and inserting "1988-1989".

(b) AUTHORIZATION OF APPROPRIATIONS.—The first section of such

20 USC 631. Act is amended—

(1) by inserting "(a)" after "SECTION 1."; and

(2) by adding at the end thereof the following:

"(b) There are authorized to be appropriated $25,000,000 for fiscal year 1989, $26,000,000 for fiscal year 1990, $27,000,000 for fiscal year 1991, $28,000,000 for fiscal year 1992, and $29,000,000 for fiscal year 1993, to carry out the provisions of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress).".

SEC. 2032. ADMINISTRATIVE AMENDMENTS.

(a) GENERAL RULE.—(1) The Act of September 23, 1950 (Public Law

20 USC 631 *et seq.* 815, Eighty-first Congress) is further amended by striking out "the Commissioner" each time it appears and inserting in lieu thereof "the Secretary".

20 USC 641. (2) Section 11(b) of such Act is amended by striking out "Commissioner's" and inserting in lieu thereof "Secretary's".

(3) Section 15(14) of such Act is amended to read as follows: "(14) The term 'Secretary' means the Secretary of Education.".

20 USC 646. (b) SPECIAL RULE.—The fifth sentence of section 16(c) of such Act is amended to read as follows: "The Secretary shall complete action of approval or disapproval of an application within 90 days of the filing of an application.".

SEC. 2033. DISASTER ASSISTANCE.

(a) GENERAL RULE.—Section 16(a)(1) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended—

(1) by striking out subparagraph (B);

(2) by striking out "or" at the end of subparagraph (A) and inserting in lieu thereof "and"; and

(3) by striking out the subparagraph designation "(A)".

(b) ELIGIBILITY.—Section 16(a)(5) of such Act is amended by striking out "$1,000 or one-half of 1 per centum" and inserting in lieu thereof "$10,000 or 5 per centum".

SEC. 2034. TECHNICAL AMENDMENT.

20 USC 644. Section 14 of the Act is amended—

(1) by striking out subsection (d); and

(2) by adding after subsection (c) the following:

Appropriation authorization. "(d) There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section. There are also authorized to be appropriated such sums as may be necessary for administration of such provisions. Amounts so appropriated, other than amounts appropriated for administration, shall remain available until expended.".

102 STAT. 302

PART B—ADULT EDUCATION

Adult Education Amendments of 1988.

20 USC 1201 note.

SECTION 2101. SHORT TITLE.

This part may be cited as the "Adult Education Amendments of 1988".

SEC. 2102. AMENDMENT TO ADULT EDUCATION ACT.

Title III of the Elementary and Secondary Education Amendments of 1966 is amended to read as follows:

"TITLE III—ADULT EDUCATION PROGRAMS

Adult Education Act.

"SEC. 301. SHORT TITLE.

20 USC 1201 note.

"This title may be cited as the 'Adult Education Act'.

"PART A—BASIC PROGRAM PROVISIONS

"SEC. 311. STATEMENT OF PURPOSE.

20 USC 1201.

"It is the purpose of this title to assist the States to improve educational opportunities for adults who lack the level of literacy skills requisite to effective citizenship and productive employment, to expand and improve the current system for delivering adult education services including delivery of such services to educationally disadvantaged adults, and to encourage the establishment of adult education programs that will—

"(1) enable these adults to acquire the basic educational skills necessary for literate functioning;

"(2) provide these adults with sufficient basic education to enable them to benefit from job training and retraining programs and obtain and retain productive employment so that they might more fully enjoy the benefits and responsibilities of citizenship; and

"(3) enable adults who so desire to continue their education to at least the level of completion of secondary school.

"SEC. 312. DEFINITIONS.

20 USC 1201a.

"As used in this title—

"(1) The term 'adult' means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law, except that for the purpose of section 313(b), the term 'adult' means an individual 16 years of age or older.

"(2) The term 'adult education' means services or instruction below the college level for adults—

"(A) who are not enrolled in secondary school;

"(B) who lack sufficient mastery of basic educational skills to enable them to function effectively in society or who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education;

"(C) who are not currently required to be enrolled in school; and

"(D) whose lack of mastery of basic skills results in an inability to speak, read, or write the English language which constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, and thus are in need of programs to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others.

102 STAT. 303

"(3) The term 'educationally disadvantaged adult' means an adult who—

"(A) demonstrates basic skills equivalent to or below that of students at the fifth grade level; or

"(B) has been placed in the lowest or beginning level of an adult education program when that program does not use grade level equivalencies as a measure of students' basic skills.

"(4) The term 'community school program' is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, rec-

reational, cultural, and other related community services for the community which the center serves in accordance with the needs, interest, and concerns of that community.

"(5) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

"(6) The term 'Secretary' means the Secretary of Education.

"(7) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and except for the purposes of section 313, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands.

"(8) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools, then such agency or officer may be designated for the purpose of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

"(9) The term 'academic education' means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

"(10) The term 'institution of higher education' means any such institution as defined by section 481 of the Higher Education Act of 1965.

102 STAT. 304

"(11) The term 'individual of limited English proficiency' means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language and—

"(A) whose native language is a language other than English; or

"(B) who lives in a family or community environment where a language other than English is the dominant language.

"(12) The term 'out-of-school youth' means an individual who is under 16 years of age and beyond the age of compulsory school attendance under State law who has not completed high school or the equivalent.

"(13) The term 'English literacy program' means a program of instruction designed to help limited English proficient adults, out-of-school youths, or both, achieve full competence in the English language.

"(14) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides education, vocational education or rehabilitation, job training, or internship services and programs and includes neighborhood groups and organizations, community action agencies, community development corporations, union-related organizations, employer-related organizations, tribal governments, and organizations serving Native Alaskans and Indians.

"(15) The term 'private industry council' means the private industry council established under section 102 of the Job Training Partnership Act.

20 USC 1201b.

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for fiscal year 1989 and such sums as

may be necessary for each succeeding fiscal year through fiscal year 1993 to carry out the provisions of this title (other than sections 371 and 372).

"(b) ALLOTMENT.—From the sums available for the purposes of section 311 for any fiscal year, the Secretary shall allot (1) $100,000 each to Guam, American Samoa, the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands, and (2) $250,000 to each of the other States. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools of such State bears to the number of such adults in all States. Territories, U.S.

"(c) REALLOTMENT.—The portion of any State's allotment under subsection (b) for a fiscal year which the Secretary determines will not be required for the period such allotment is available for carrying out the State plan approved under this title shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other States in proportion to the original allotments to such States under subsection (b) for such year, but with such proportionate amount for any of such other State being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out its State plan approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount allotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) for such year. 102 STAT. 305

"(d) RESERVATION OF FUNDS FOR NATIONAL PROGRAMS.—For any fiscal year, if the amount appropriated to carry out the purposes of this title exceeds $108,000,000, not more than $3,000,000 of such amount shall be reserved to carry out the programs described in part D, relating to national programs.

"PART B—STATE PROGRAMS

"Subpart 1—Basic State Grants

"SEC. 321. BASIC GRANTS. 20 USC 1203.

"From the sums allotted to States for this subpart pursuant to section 313, the Secretary is authorized to make grants to States to assist them in funding adult education programs, services, and activities carried out by eligible recipients to achieve the purposes of this title.

"SEC. 322. USE OF FUNDS; LOCAL APPLICATIONS. 20 USC 1203a.

"(a) USE OF FUNDS.—

"(1) Grants to States under this subpart shall be used in accordance with State plans (and amendments thereto) approved under sections 341 and 351, to pay the Federal share of the cost of the establishment or expansion of adult education programs to be carried out by local educational agencies and by public or private nonprofit agencies, organizations, and institutions. Grants provided under this section to States to carry out the programs described in the preceding sentence may be carried out by public or private nonprofit agencies, organizations, and institutions only if the applicable local educational agency has been consulted with and has had an opportunity to comment on the application of such agency, organization, or institution. The comments of the local educational agency, and responses thereto, shall be attached to the application when it is forwarded to the State.

"(2) Grants to States provided under this section may also be used to carry out programs by a consortium which includes a for-profit agency, organization, or institution if such agency,

Contracts.

organization, or institution can make a significant contribution to attaining the objectives of this Act. Whenever the establishment or expansion of programs includes a for-profit agency, organization, or institution, as part of a consortium, a contract with such agency, organization, or institution, for the establishment or expansion of such programs shall be entered into by the public or private nonprofit agency, institution, or organization.

"(3) The State educational agency shall not approve any application unless evidence that any consultation required by paragraph (1) has taken place is provided. Such application shall contain such information as the State educational agency considers necessary, including a description of current programs, activities, and services receiving assistance from Federal, State, and local sources; cooperative arrangements (including arrangements with business, industry, and volunteer literacy organizations as appropriate) that have been made to

102 STAT. 306

deliver services to adults as well as assurances that adult educational programs, services, or activities provided under this title are coordinated with and not duplicative of services, programs, or activities made available to adults under other Federal, State, and local programs, including the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, the Rehabilitation Act of 1973, the Education of the Handicapped Act, the Indian Education Act, the Higher Education Act of 1965, and the Domestic Volunteer Service Act.

"(4)(A) The State educational agency shall give preference to those applicants who have demonstrated or can demonstrate a capability to recruit and serve educationally disadvantaged adults.

"(B) The provisions of subparagraph (A) shall apply in any fiscal year in which the amount appropriated for basic State grants under this subpart exceeds the amounts available for such grants in fiscal year 1988.

"(b) LIMITATIONS ON USE OF FUNDS.—

"(1) Not less than 10 percent of the funds paid to a State under subsection (a) shall be used for corrections education and education for other institutionalized individuals in accordance with subpart 2.

"(2) Not more than 20 percent of a State's allotment shall be used for programs of equivalency for a certificate of graduation from a secondary school.

20 USC 1203b.

"SEC. 323. LOCAL ADMINISTRATIVE COST LIMITS.

"(a) Of the funds provided by the State agency to eligible recipients, at least 95 percent must be expended for provision of adult education instructional activities. The remainder shall be used for planning, administration, personnel development, and interagency coordination.

"(b) In cases where the administrative cost limits under subsection (a) would be insufficient for adequate planning, administration, evaluation, and coordination of programs supported under this Act, the State agency shall negotiate with the local grant recipient in order to determine an adequate level of funds to be used for noninstructional purposes.

"Subpart 2—Programs for Corrections Education and Education for Other Institutionalized Individuals

20 USC 1204.

"SEC. 326. PROGRAM AUTHORIZED.

"Funds set aside under section 322(b)(1) by a State shall be used for the cost of educational programs for criminal offenders in corrections institutions and for other institutionalized individuals, including—

"(1) academic programs for—

"(A) basic education with special emphasis on reading, writing, vocabulary, and arithmetic;

"(B) special education programs as defined by State law;
"(C) bilingual or English as a second language programs; and
"(D) secondary school credit programs;
"(2) vocational training programs;
"(3) library development and library service programs;
"(4) corrections education programs, training for teacher personnel specializing in corrections education, particularly courses in social education, basic skills instruction, and abnormal psychology; 102 STAT. 307
"(5) guidance and counseling programs;
"(6) supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after their release; and
"(7) cooperative programs with educational institutions, community-based organizations of demonstrated effectiveness, and the private sector, designed to provide education and training.

"(b) As used in this section, the term—
"(1) 'criminal offender' means any individual who is charged with or convicted of any criminal offense; and
"(2) 'correctional institution' means any—
"(A) prison,
"(B) jail,
"(C) reformatory,
"(D) work farm,
"(E) detention center, or
"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

"Subpart 3—State Administrative Responsibilities

"SEC. 331. STATE ADMINISTRATION. 20 USC 1205.

"(a) STATE AGENCY RESPONSIBILITIES.—Any State desiring to participate in the programs authorized by this title shall designate the State educational agency to be the sole State agency responsible for the administration and supervision of such programs. The responsibilities of the State agency shall include—
"(1) the development, submission, and implementation of the State application and plan and any amendments thereto (pursuant to sections 342 and 351), and the State evaluation (pursuant to section 352);
"(2) consultation with the State advisory council established pursuant to section 332, and other appropriate agencies, groups, and individuals involved in the planning, administration, evaluation, and coordination of programs funded under this title; and
"(3) the assignment of such personnel as may be necessary for State administration of programs under this title.

"(b) STATE IMPOSED REQUIREMENTS.—Whenever any State imposes any rule or policy relating to the administration and operation of programs funded by this title (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) the rule or policy shall be identified as a State imposed requirement.

"(c) LIMITATION ON STATE ADMINISTRATIVE COSTS.—Effective for fiscal years beginning after September 30, 1990, a State educational agency may use no more than 5 percent of the State's grant or $50,000, whichever is greater, to pay the cost of its administration of the State's program. Effective date.

"SEC. 332. STATE ADVISORY COUNCIL ON ADULT EDUCATION. 20 USC 1205a.

"(a) REQUIREMENT.—(1) Any State may designate a body, or establish a new body if there is no suitable existing body, to act as a State

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advisory council on adult education, appointed by the Governor. The membership of the State advisory council shall be broadly representative of citizens and groups within the State having an interest in adult education, and shall consist of representatives of public education; private and public sector employment; recognized State labor organizations; private, voluntary, or community literacy organizations; libraries; and State economic development agencies.

"(2) A State which elects to designate or establish a State advisory council available for this subsection may use funds under this subpart for the purposes of this subsection.

"(b) REPRESENTATION ON COUNCIL.—The State shall ensure that there is appropriate representation on the State advisory council of urban as well as rural areas, of women, persons with handicaps, and racial and ethnic minorities.

"(c) CERTIFICATION.—The State shall certify the establishment and membership of the State advisory council to the Secretary prior to the beginning of any fiscal year in which the State desires to receive a grant under this title.

"(d) PROCEDURES.—Members of the State advisory council shall, using procedures agreed upon, elect their own chairperson. The State advisory council shall determine its own procedures, staffing needs (subject to funding levels authorized by the Governor), and the number, time, place, and conduct of meetings, except that it shall hold at least 1 public meeting each year at which the general public is given an opportunity to express views concerning adult education programs in the State. In approving the plan for the evaluations under subsection (f)(3)(A), the council shall ensure that persons knowledgeable of the daily operation of adult education programs are involved.

"(e) TERMS.—Members shall be appointed for fixed and staggered terms and may serve until their successors are appointed. Any vacancy in the membership of the council shall be filled in the same manner as the original appointment. Any member of the council may be removed for cause in accordance with procedures established by the council.

"(f) DUTIES.—Each State advisory council shall—

"(1) meet with the State agency or its representatives during the planning year to advise on the development of the State plan;

"(2) advise the State agency concerning—

"(A) policies the State should pursue to strengthen adult education; and

"(B) initiatives and methods the private sector could undertake to assist the State's improvement of adult education programs; and

"(3)(A) approve the plan for evaluations required in section 352 and participate in the implementation and dissemination of such evaluations, (B) advise the Governor, the State legislature, and the general public of the State of the findings of such evaluations, and (C) include in any report of such evaluations its comments and recommendations.

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"Subpart 4—Planning and Applications

20 USC 1206.

"SEC. 341. STATE PLAN AND APPLICATION.

"(a) REQUIREMENT.—Any State desiring to receive funds under this title shall submit to the Secretary, during the fiscal year 1989 and during each fourth fiscal year thereafter, a State plan and application for adult education (in one document) for the four fiscal years succeeding each fiscal year in which the State plan and application are submitted.

"(b) PROCEDURE FOR SUBMISSION AND CONSIDERATION.—Each State plan and application shall be submitted to the Secretary by July 1 preceding the beginning of the first fiscal year for which the plan is

in effect. The Secretary shall approve, within 60 days, each such plan and application which is formulated in accordance with sections 342 and 343 and which meets the requirements of such sections, and shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State agency.

"(c) GEPA PROVISION.—Such document shall be considered to be the general application required to be submitted by the State for funds received under this Act for the purpose of the provisions of section 435 of the General Education Provisions Act.

"SEC. 342. FOUR-YEAR STATE PLAN. 20 USC 1206a.

"(a) PROCEDURES REQUIRED IN FORMULATING STATE PLAN.—(1) In formulating the State plan, the State agency shall meet with and utilize the State advisory council, if established pursuant to section 332 of this title.

"(2) The State agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public, including groups serving educationally disadvantaged adults, and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State agency's response shall be included with the State plan submitted to the Secretary. Public information.

"(3)(A) Not less than 60 days before submission of the State plan to the Secretary under section 341, the State agency shall simultaneously submit the proposed State plan to (i) the State Board or agency for vocational education, (ii) the State Job Training Coordinating Council under the Job Training Partnership Act, and (iii) the State Board responsible for postsecondary education for review and comment. Such comments (to the extent such comments are received in a timely fashion) and the State's response shall be included with the State plan submitted to the Secretary. The Secretary shall consider such comments in reviewing such plan.

"(B) Not less than 60 days before the submission of the State plan to the Secretary, such plan shall be submitted to the State advisory council (if such a council exists). Should the State advisory council find that it has substantial disagreement with the final State plan, the Council may file timely objections with the State agency. The State agency shall respond to all substantial objections of the State advisory council in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

"(b) REQUIRED ASSESSMENTS.—In developing the 4-year State plan, each State shall (1) make a thorough assessment of (A) the needs of adults, including educationally disadvantaged adults, eligible to be served as well as adults proposed to be served and those served and (B) the capability of existing programs and institutions to meet those needs, and (2) state the changes and improvements required in adult education to fulfill the purposes of this title, and the options for implementing these changes and improvements. 102 STAT. 310

"(c) COMPONENTS OF STATE PLAN.—Consistent with the assessments described in subsection (b) each such plan shall—

"(1) set forth the goals, the methods and strategies, and the expected outcomes of programs, services, and activities during the 4-year period;

"(2) describe the curriculum, equipment, and instruments that are being used by instruction personnel and indicate how current these elements are;

"(3) describe the means by which the delivery of adult education services will be significantly expanded (including efforts to reach typically underserved groups such as educationally disadvantaged adults, individuals with limited English proficiency and individuals with handicaps) through the use of agencies, institutions, and organizations other than the public school system, such as businesses, labor unions, libraries, institutions of higher education, public health authorities, employment or training programs, antipoverty programs, Disadvantaged persons.

organizations providing assistance to the homeless, and community and voluntary organizations;

"(4) describe the means by which representatives of the public and private sector are involved in the development and implementation of the plan, especially in the expansion of the delivery of adult education services by cooperation and collaboration with those public and private agencies, institutions, and organizations;

"(5) describe specialized efforts to attract and assist meaningful participation in adult education programs through flexible course schedules, provision of auxiliary aids and services, convenient locations, adequate transportation, and meeting child care needs;

"(6) provide for the needs of persons with limited English proficiency (as defined in section 7004(a) of title VII of the Elementary and Secondary Education Act of 1965 or no English proficiency by providing adequate appropriate language assistance to the extent necessary to all such persons so they may progress effectively through adult education programs;

Handicapped persons. Homeless persons. Disadvantaged persons. Minorities.

"(7) describe how the particular educational needs of adult immigrants, the incarcerated, persons with handicaps, the chronically unemployed, the homeless, the disadvantaged, and minorities will be addressed;

"(8) describe the progress the State has made in achieving the goals set forth in each State plan subsequent to the initial State plan;

"(9) describe the progress it expects to make toward achieving the purpose of this title during the 4-year period of the State plan;

"(10) set forth the criteria the State agency will use in approving applications by eligible recipients and allocating funds made available under this title to such recipients;

"(11) describe the methods proposed for the joint planning and coordination of programs carried out under this title with those

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conducted under applicable Federal and State programs, including the Carl D. Perkins Vocational Education Act of 1963, the Job Training Partnership Act, the Rehabilitation Act of 1973, the Education of the Handicapped Act, the Immigration Reform and Control Act of 1986, the Higher Education Act of 1965, and the Domestic Volunteer Service Act, to assure maximum use of funds under these Acts and to avoid duplication of services;

"(12) describe the steps taken to utilize volunteers, particularly volunteers assigned to the Literacy Corps established under the Domestic Volunteer Service Act and volunteers trained in programs carried out by section 382 of this title, but only to the extent that such volunteers supplement and do not supplant salaried employees; and

"(13) describe the measures to be taken to ensure that adult education programs, services, and activities assisted under this title will take into account the findings or program reviews and evaluations carried out pursuant to section 352.

"(d) LIMITED ENGLISH PROFICIENCY RULE.—Programs conducted under subsection (c)(6) shall be designed to teach English to limited English proficient adults and, as appropriate, to allow such adults to progress effectively through the adult education program or to prepare them to enter the regular program of adult education as quickly as possible. Such programs may provide instruction in the native language, to the extent necessary, or may provide instruction exclusively in English, and shall be carried out in coordination with programs assisted under the Bilingual Education Act and with bilingual vocational education programs under the Carl D. Perkins Vocational Education Act.

20 USC 1206b.

"SEC. 343. STATE APPLICATIONS.

"The State application submitted pursuant to section 341 shall provide assurances—

"(1) that the State will provide such methods of administration as are necessary for the proper and efficient administration of this title;

"(2) that Federal funds made available under this title will be so used as to supplement the amount of State and local funds available for uses specified in this title, and in no case to supplant such State and local funds;

"(3) that the programs, services, and activities funded in accordance with the uses specified in section 322 are designed to expand or improve the quality of adult education programs including programs for educationally disadvantaged adults, to initiate new programs of high quality, or where necessary, to maintain programs;

"(4) that the State will provide such fiscal control and fundings accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this title); and

"(5) that the State has instituted policies and procedures to ensure that copies of the State plan and all statements of general policy, rules, regulations, and procedures will be made available to the public.

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"Subpart 5—Evaluation and State Plan Amendments

"SEC. 351. STATE PLAN AMENDMENTS.

20 USC 1207.

"(a) TIMELY SUBMISSION.—When changes are necessary in a State plan, the State shall submit amendments to its plan by July 1 preceding the fiscal year of operation to which the amendments apply.

"(b) CONSIDERATION BY SECRETARY.—The Secretary shall approve, within 60 days of submission, State plan amendments which meet the requirements of this section, unless such amendments propose changes that are inconsistent with the requirements and purposes of this title. The Secretary shall not finally disapprove such amendments except after giving reasonable notice and an opportunity for hearing to the State agency.

"(c) TRANSITION RULE.—Upon a written request from a State, the Secretary shall approve an extension of 1 year, from June 30, 1988, to June 30, 1989, for the revision of any plan already approved under this section for the period July 1, 1985, through June 30, 1988.

"SEC. 352. EVALUATION.

Grants.
20 USC 1207a.

"In order to assist grant recipients receiving funds under this title to plan and operate the best possible programs of adult education, each State agency during the 4-year period of the State plan shall—

"(1) annually submit data to the Secretary with respect to grant recipients;

"(2) before the end of such period evaluate at least one-third of grant recipients (which are representative of all grant recipients in the State) and such evaluations shall consider—

"(A) the planning and content of the program;

"(B) the curriculum, instructional materials, equipment, and qualifications of all personnel;

"(C) the effect of the program on the subsequent work experience of graduates; and

"(D) other factors determined to affect program operation; and

"(3) gather and analyze data (including standardized test data) to determine the extent to which the adult programs are achieving the goals set forth in the plan including the goal of serving educationally disadvantaged adults, and the extent to which grant recipients have improved their capacity to achieve the purposes of this title as set forth in section 311.

"Subpart 6—Demonstration Projects

20 USC 1208.

"SEC. 353. SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING.

"(a) USE OF FUNDS.—Of the funds allotted to a State under section 313 for a fiscal year, not less than 10 percent shall be used for—

"(1) special projects which will be carried out in furtherance of the purposes of this title, which will be coordinated with other programs funded under this title and which—

"(A) involve the use of innovative methods (including methods for educating persons with handicaps, the homeless, and persons of limited English proficiency), systems, materials, or programs which may have national significance or will be of special value in promoting effective programs under this title, or

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"(B) involve programs of adult education, including education for persons with handicaps, the homeless, and persons of limited English proficiency, which are part of community school programs, carried out in cooperation with other Federal, State, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies; and

"(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this title.

"(b) APPLICATIONS.—Applications for funds under subsection (a) shall include such information as the State educational agency considers appropriate, including plans for continuing the activities and services under the project after the completion of the funding.

"Subpart 7—Federal Share; Federal Administrative Responsibilities

20 USC 1209.

"SEC. 361. PAYMENTS.

"(a) FEDERAL SHARE.—The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be—

Territories, U.S.

"(1) 90 percent of the cost of carrying out the State's programs for fiscal year 1988;

"(2) 85 percent of such cost for fiscal year 1990;

"(3) 80 percent of such cost for fiscal year 1991; and

"(4) 75 percent of such cost for fiscal year 1992 and for each fiscal year thereafter,

except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Federal share of such cost shall be 100 percent.

"(b) MAINTENANCE OF EFFORT.—(1) No payment may be made to any State from its allotment for any fiscal year unless the Secretary finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the second preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the third preceding fiscal year.

"(2) The Secretary may waive the requirements of this subsection for 1 fiscal year only, upon making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources.

"PART C—WORKPLACE LITERACY AND ENGLISH LITERACY GRANTS

102 STAT. 314

"SEC. 371. BUSINESS, INDUSTRY, LABOR, AND EDUCATION PARTNERSHIPS FOR WORKPLACE LITERACY.

20 USC 1211.

"(a) GRANTS FOR EXEMPLARY DEMONSTRATION PARTNERSHIPS FOR WORKPLACE LITERACY.—(1) Subject to subsection (b), the Secretary shall make demonstration grants to exemplary education partnerships for workplace literacy to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (3); and

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A).

"(3) Programs funded under paragraph (2)(A) shall be designed to improve the productivity of the workforce through improvement of literacy skills needed in the workplace by—

"(A) providing adult literacy and other basic skills services and activities;

"(B) providing adult secondary education services and activities which may lead to the completion of a high school diploma or its equivalent;

"(C) meeting the literacy needs of adults with limited English proficiency;

"(D) upgrading or updating basic skills of adult workers in accordance with changes in workplace requirements, technology, products, or processes;

"(E) improving the competency of adult workers in speaking, listening, reasoning, and problem solving; or

"(F) providing education counseling, transportation, and nonworking hours child care services to adult workers while they participate in a program funded under paragraph (2)(A).

"(4) An application to receive funding for a program out of a grant made to a partnership under this subsection shall—

"(A) be submitted jointly by—

"(i) a business, industry, or labor organization, or private industry council; and

"(ii) a State educational agency, local educational agency, institution of higher education, or school (including an area vocational school, an employment and training agency, or community-based organization);

"(B) set forth the respective roles of each member of the partnership;

"(C) contain such additional information as the Secretary may require, including evidence of the applicant's experience in providing literacy services to working adults;

"(D) describe the plan for carrying out the requirements of paragraph (3); and

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"(E) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this section.

"(b) GRANTS TO STATES.—(1) Whenever in any fiscal year, appropriations under subsection (c) are equal to or exceed $50,000,000, the Secretary shall make grants to States which have State plans approved by the Secretary under section 342 to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, or labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (4);

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A); and

"(C) for costs incurred by State educational agencies in obtaining evaluations described in paragraph (3)(A)(iii).

"(3) A State shall be eligible to receive its allotment under paragraph (7)(B) if it—

"(A) includes in a State plan submitted to the Secretary under section 342 a description of—

"(i) the requirements for State approval of funding of a program;

"(ii) the procedures under which applications for such funding may be submitted; and

"(iii) the method by which the State shall obtain annual third-party evaluation of student achievement in, and overall effectiveness of services provided by, all programs which receive funding out of a grant made to the State under this section; and

"(B) satisfies the requirements of section 306(a).

"(4) The program requirements set forth in subsection (a)(3) shall apply to the program authorized by this subsection.

"(5) An application to receive funding for a program from a grant made to a State under paragraph (1) shall contain the same information required in subparagraphs (A) through (E) of subsection (a)(4).

"(6) If a State is not eligible for a grant under paragraph (1) of this subsection, the Secretary shall use the State's allotment under paragraph (7) to make direct grants to applicants in that State who are qualified to teach literacy skills needed in the workplace.

"(7)(A) The Federal share of expenditures for programs in a State funded under this subsection shall be paid from a State's allotment under this paragraph.

"(B) From the sum appropriated for each fiscal year under subsection (c) for any fiscal year in which appropriations equal or exceed $50,000,000, the Secretary shall allot—

Territories, U.S.

"(i) $25,000 to each of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands; and

"(ii) to each remaining State an amount which bears the same

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ratio to the remainder of such sum as—

"(I) the number of adults in the State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in the State, bears to

"(II) the number of such adults in all States;

except that no State shall receive less than $125,000 in any fiscal year.

"(C) At the end of each fiscal year, the portion of any State's allotment for that fiscal year which—

"(i) exceeds 10 percent of the total allotment for the State under paragraph (2) for the fiscal year; and

"(ii) remains unobligated;

shall be reallocated among the other States in the same proportion as each State's allocation for such fiscal year under paragraph (2).

"(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $30,000,000 for the fiscal year 1988, $31,500,000 for the fiscal year 1989, and such sums as may be necessary for the fiscal year 1990 and each succeeding fiscal year ending prior to October 1, 1993, to carry out the provisions of this section.

"(2) No funds may be appropriated under paragraph (1) of this subsection for any fiscal year unless the appropriation for this Act (other than this part) for that year is equal to or greater than $110,000,000.

"(3) Amounts appropriated under this subsection shall remain available until expended.

"SEC. 372. ENGLISH LITERACY GRANTS. 20 USC 1211a.

"(a) GRANTS TO STATES.—(1) The Secretary may make grants to States which have State plans approved by the Secretary under section 342 for the establishment, operation, and improvement of English literacy programs for individuals of limited English proficiency. Such grants may provide for support services for program participants, including child care and transportation costs.

"(2) A State shall be eligible to receive a grant under paragraph (1) if the State includes in a State plan submitted to the Secretary under section 342 a description of—

"(A) the number of individuals of limited English proficiency in the State who need or could benefit from programs assisted under this chapter;

"(B) the activities which would be undertaken under the grant and the manner in which such activities will promote English literacy and enable individuals in the State to participate fully in national life;

"(C) how the activities described in subparagraph (B) will serve individuals of limited English proficiency, including the qualifications and training of personnel who will participate in the proposed activities;

"(D) the resources necessary to develop and operate the proposed activities and the resources to be provided by the State; and

"(E) the specific goals of the proposed activities and how achievement of these goals will be measured.

"(3) The Secretary may terminate a grant only if the Secretary determines that—

"(A) the State has not made substantial progress in achieving the specific educational goals set out in the application; or 102 STAT. 317

"(B) there is no longer a need in the State for the activities funded by the grant.

"(b) SET-ASIDE FOR COMMUNITY-BASED ORGANIZATIONS.—A State that is awarded a grant under subsection (a) shall use not less than 50 percent of funds awarded under the grant to fund programs operated by community-based organizations with the demonstrated capability to administer English proficiency programs.

"(c) REPORT.—A State that is awarded a grant under subsection (a) shall submit to the Secretary a report describing the activities funded under the grant for each fiscal year covered by the grant.

"(d) DEMONSTRATION PROGRAM.—The Secretary, subject to the availability of funds appropriated pursuant to this section, shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program— Contracts.

"(1) through the Adult Education Division to develop innovative approaches and methods of literacy education for individuals of limited English proficiency utilizing new instructional methods and technologies; and

"(2) to designate the Center for Applied Linguistics of the Office of Educational Research and Improvement as a national clearinghouse on literacy education for individuals of limited English proficiency to collect and disseminate information concerning effective approaches or methods, including coordination with employment training and other education programs. Public information.

"(e) EVALUATION AND AUDIT.—The Secretary shall evaluate the effectiveness of programs conducted under this section. Programs funded under this section shall be audited in accordance with chapter 75 of title 31, United States Code.

"(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $25,000,000 for the fiscal year 1988, $26,300,000 for the fiscal year 1989, $27,600,000 for the fiscal year 1990, $29,000,000 for the fiscal year 1991, $30,500,000 for the fiscal year 1992, and $32,000,000 for the fiscal year 1993 to carry out this section.

"(2) Funds appropriated pursuant to this section shall remain available until expended.

"(3) Funds appropriated under this subsection may be combined with other funds made available for the State by the Federal Government for literacy training for individuals with limited English proficiency.

"(4) Not more than 10 percent of funds available under this section may be used to carry out the provisions of subsection (d).

"(5) Not more than 5 percent of funds available under this section may be used for State administration, technical assistance, and training.

Grants.

"PART D—NATIONAL PROGRAMS

20 USC 1213.

"SEC. 381. ADULT MIGRANT FARMWORKER AND IMMIGRANT EDUCATION.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to carry out a program of making grants to States and local eligible recipients to support planning, developing, and evaluating programs which are designed to provide adult education programs, services, and activities to meet the special needs of migrant farmworkers and immigrants. Programs operated from such grants shall be included in a State's plan and must conform to all requirements of programs provided for by the State's basic grant. In carrying out this section, the Secretary may enter into interagency agreements with the Secretary of Health and Human Services to conduct programs in conjunction with activities authorized under the Immigration Reform and Control Act of 1986.

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Contracts.

"(b) PRIORITY.—In carrying out the provisions of this part, the Secretary shall from funds reserved under section 313(d) give first priority to the portion of the program described in subsection (a) for migrant farmworkers.

20 USC 1213a.

"SEC. 382. ADULT LITERACY VOLUNTEER TRAINING.

Aged persons.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to carry out a program of making grants to States and local eligible recipients to support planning, implementation, and evaluation of programs designed to train adult volunteers, especially the elderly, who wish to participate as tutors in local adult education programs.

"(b) PRIORITY.—In carrying out the provisions of this part the Secretary shall from funds reserved under section 313(d) give second priority to the portion of the program described in subsection (a) for adult volunteers.

20 USC 1213b.

"SEC. 383. STATE PROGRAM ANALYSIS ASSISTANCE AND POLICY STUDIES.

"(a) FEDERAL ASSISTANCE.—(1) The Secretary is authorized to assist States in evaluating the status and progress of adult education in achieving the purposes of this title, and activities designed to provide such assistance shall include, but are not limited to—

"(A) an analysis of State plans and of the findings of evaluations conducted pursuant to section 352, with suggestions to State agencies for improvements in planning or program operation; and

Public information.

"(B) the provision of an information network (in conjunction with the National Diffusion Network) on the results of research in adult education, the operation of model or innovative programs (including efforts to continue activities and services, under the program after the Federal funding has been discontinued) successful experiences in the planning, administration, and conduct of adult education programs, advances in curriculum and instructional practices, and other information useful in the improvement of adult education.

"(2) PRIORITY.—In carrying out the provisions of this part the Secretary shall from funds reserved under section 313(d) give third priority to the portion of the program described in paragraph (1) for evaluation and research.

"(b) DETERMINATION OF LITERACY.—The Secretary, in consultation with the Congress shall, within the first 2 years after enactment of the Adult Education Amendments of 1988, make a determination of the criteria for defining literacy, taking into consideration reports prepared by the National Assessment of Educational Progress and others and shall identify concretely those skills that comprise the basic educational skills needed for literate functioning. The Secretary, once the definition of literacy has been determined, shall, in consultation with the Congress and using the appropriate statistical sampling methodology, determine an accurate estimate of the number of illiterate adults in the Nation.

"(c) REPORT ON STATUS OF LITERACY AND ADULT EDUCATION.—Subsequent to the determination of literacy and the number of illiterate individuals required in subsection (b), the Secretary shall submit a report every 4 years to the President and to the appropriate committees of the Congress on the status of literacy and adult education in the Nation. 102 STAT. 319

"(d) EVALUATION REPORT.—Three years after the date of enactment of the Adult Education Amendments of 1988, and thereafter in conjunction with the report under subsection (c), the Secretary shall report to the appropriate committees of the Congress on the results of program evaluations required under this title and conclusions drawn therefrom regarding progress toward meeting the goals and purposes of this title, together with such recommendations as the Secretary may wish to make.

"SEC. 384. NATIONAL RESEARCH ACTIVITIES. 20 USC 1213c.

"(a) APPROVED ACTIVITIES.—The Secretary shall, through the Office of Educational Research and Improvement, support applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the Nation. Such activities shall include the establishment of a national clearinghouse to compile information on literacy curriculum and resources for adults, including youth and adults of limited English proficiency and adults with handicaps. The Secretary may support such activities directly, or through grants to, or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals. Contracts.

"(b) RESEARCH CONCERNING SPECIAL NEEDS.—In addition to the responsibilities of the Assistant Secretary for Educational Research and Improvement under section 405 of the General Education Provisions Act, the Assistant Secretary may, with funds available under that section, with funds available under other Federal programs, or with funds set aside under section 313(d) of this title, support research on the special needs of persons requiring adult education including a study of the magnitude and nature of the needs of adults with learning disabilities who are eligible for participation in adult education programs. The Assistant Secretary may support such research directly or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations. Contracts.

"SEC. 385. LIMITATION. 20 USC 1213d.

"No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term 'school or department of divinity' means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.".

PART C—EDUCATION FOR ECONOMIC SECURITY

SEC. 2301. REAUTHORIZATION OF PARTNERSHIP IN EDUCATION.

Section 304(b) of the Education for Economic Security Act (20 U.S.C. 3983) is amended—

(1) by striking ", and 1988" and all that follows before the period;

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(2) by striking "1986," and inserting "1986 and"; and

Appropriation authorization.

(3) by adding at the end "There are authorized to be appropriated to carry out the provisions of this title $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.".

SEC. 2302. STAR SCHOOLS PROGRAM AUTHORIZED.

The Education for Economic Security Act is amended by adding at the end thereof the following new title:

Star Schools Program Assistance Act. Communications and telecommunications. 20 USC 4081 note.

"TITLE IX—STAR SCHOOLS PROGRAM

"SHORT TITLE

"SEC. 901. This title may be cited as the 'Star Schools Program Assistance Act'.

"STATEMENT OF PURPOSE

20 USC 4081.

"SEC. 902. It is the purpose of this title to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects such as vocational education through a star schools program under which demonstration grants are made to eligible telecommunications partnerships to enable such eligible telecommunications partnerships to develop, construct, and acquire telecommunications audio and visual facilities and equipment, to develop and acquire instructional programming, and obtain technical assistance for the use of such facilities and instructional programming.

"PROGRAM AUTHORIZED

Grants. 20 USC 4082.

"SEC. 903. (a) GENERAL AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible telecommunications partnerships for the Federal share of the cost of the development, construction, and acquisition of telecommunications facilities and equipment, of the development and acquisition of instructional programming, and of technical assistance.

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated $100,000,000 for the period beginning October 1, 1987, and ending September 30, 1992.

"(2) No appropriation in excess of $20,000,000 may be made in fiscal year 1988, and no appropriation in excess of $60,000,000 may be made in any of the fiscal years 1989 through 1992 pursuant to paragraph (1) of this subsection.

"(3) Funds appropriated pursuant to this subsection shall remain available until expended.

"(c) LIMITATIONS.—(1)(A) A demonstration grant made to an eligible telecommunications partnership under this title may not exceed $10,000,000.

"(B) An eligible telecommunications partnership may receive a grant for a second year under this title, but in no event may such a partnership receive more than $20,000,000.

"(2) Not less than 25 percent of the funds available in any fiscal year under this Act shall be used for the cost of instructional programming.

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"(3) Not less than 50 percent of the funds available in any fiscal year under this title shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or

programming, for local educational agencies which are eligible to receive assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(d) FEDERAL SHARE.—(1) The Federal share for any fiscal year shall be 75 percent.

"(2) The Secretary may reduce or waive the requirements of the non-Federal share required under paragraph (1) of this subsection upon a showing of financial hardship.

"ELIGIBLE TELECOMMUNICATIONS PARTNERSHIPS

"SEC. 904. (a) GENERAL RULE.—In order to be eligible for demonstration grants under this title, an eligible telecommunications partnership shall consist of— 20 USC 4083.

"(1) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary and secondary schools which are eligible to participate in the program under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; or

"(2) a partnership which includes three or more of the following, and at least one of which shall be an agency described in subparagraph (A) or (B), and which will provide a telecommunications network:

"(A) a local educational agency, which has a significant number of elementary and secondary schools which are eligible for assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 or elementary and secondary schools operated for Indian children by the Department of the Interior eligible under section 1005(d) of the Elementary and Secondary Education Act of 1965, Indians.

"(B) a State educational agency, or a State higher education agency,

"(C) an institution of higher education,

"(D) a teacher training center which—

"(i) provides teacher preservice and inservice training, and

"(ii) receives Federal financial assistance or has been approved by a State agency, or

"(E)(i) a public agency with experience or expertise in the planning or operation of a telecommunications network,

"(ii) a private organization with such experience, or

"(iii) a public broadcasting entity with such experience.

"(b) SPECIAL RULE.—An eligible telecommunications partnership must be organized on a statewide or multistate basis.

"APPLICATIONS

"SEC. 905. (a) APPLICATION REQUIRED.—Each eligible telecommunications partnership which desires to receive a demonstration grant under this title may submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. 20 USC 4084. 102 STAT. 322

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought which may include—

"(A) the design, development, construction, and acquisition of State or multistate educational telecommunications networks and technology resource centers;

"(B) microwave, fiber optics, cable, and satellite transmission equipment;

"(C) reception facilities;

"(D) satellite time;

"(E) production facilities;

"(F) other telecommunications equipment capable of serving a wide geographic area;

"(G) the provision of training services to elementary and secondary school teachers (particularly teachers in schools receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965) in using the facilities and equipment for which assistance is sought; and

"(H) the development of educational programming for use on a telecommunications network;

"(2) describe, in the case of an application for assistance for instructional programming, the types of programming which will be developed to enhance instruction and training;

"(3) demonstrate that the eligible telecommunications partnership has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the telecommunications partnership will increase the availability of courses of instruction in mathematics, science, and foreign languages, as well as the other subjects to be offered;

"(4) describe the teacher training policies to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;

"(5) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

"(6) provide assurances that a significant portion of the facilities, equipment, technical assistance, and programming for which assistance is sought will be made available to elementary and secondary schools of local educational agencies which have a high percentage of children counted for the purpose of chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

Disadvantaged persons.

"(7) describe the manner in which traditionally underserved students will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this title;

"(8) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this title; and

"(9) provide such additional assurances as the Secretary may reasonably require.

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"(c) APPROVAL OF APPLICATION; PRIORITY.—The Secretary shall, in approving applications under this title, give priority to applications which demonstrate that—

Disadvantaged persons.

"(1) a concentration and quality of mathematics, science, and foreign language resources which, by their distribution through the eligible telecommunications partnership, will offer significant new educational opportunities to network participants, particularly to traditionally underserved populations and areas with scarce resources and limited access to courses in mathematics, science, and foreign languages;

"(2) the eligible telecommunications partnership has secured the direct cooperation and involvement of public and private educational institutions, State and local government, and industry in planning the network;

"(3) the eligible telecommunications partnership will serve the broadest range of institutions, including public and private elementary and secondary schools (particularly schools having significant numbers of children counted for the purpose of chapter 1 of title I of the Elementary and Secondary Education Act of 1965), programs providing instruction outside of the school setting, institutions of higher education, teacher training centers, research institutes, and private industry;

"(4) a significant number of educational institutions have agreed to participate or will participate in the use of the telecommunications system for which assistance is sought;

"(5) the eligible telecommunications partnership will have substantial academic and teaching capabilities including the capability of training, retraining, and inservice upgrading of teaching skills;

"(6) the eligible telecommunications partnership will serve a multistate area; and

"(7) the eligible telecommunications partnership will, in providing services with assistance sought under this Act, meet the needs of groups of individuals traditionally excluded from careers in mathematics and science because of discrimination, inaccessibility, or economically disadvantaged backgrounds.

"(d) GEOGRAPHIC DISTRIBUTION.—In approving applications under this title, the Secretary shall assure an equitable geographic distribution of grants. Grants.

"DISSEMINATION OF COURSES AND MATERIALS UNDER THE STAR SCHOOLS PROGRAM

"SEC. 906. (a) REPORT.—Each eligible telecommunications partnership awarded a grant under this title shall report to the Secretary a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers which will be transmitted over satellite, specifying the satellite on which such transmission will occur and the time of such transmission. 20 USC 4085.

"(b) DISSEMINATION OF COURSES OF INSTRUCTION.—The Secretary shall compile and prepare for dissemination a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers equipped with satellite transmission capabilities, as reported to the Secretary under subsection (a) of this section.

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"(c) DISSEMINATION TO STATE EDUCATIONAL AGENCIES.—The Secretary shall distribute the list required by subsection (b) of this section to all State educational agencies.

"DEFINITIONS

"SEC. 907. As used in this title— 20 USC 4086.

"(1) the term 'educational institution' means an institution of higher education, a local educational agency, and a State educational agency;

"(2) the term 'institution of higher education' has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

"(3) the term 'local educational agency' has the same meaning given that term under section 1471(10) of the Elementary and Secondary Education Act of 1965;

"(4) the term 'instructional programming' means courses of instruction, and training courses, and materials for use in such instruction and training which have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices;

"(5) the term 'public broadcasting entity' has the same meaning given that term in section 397 of the Communications Act of 1934;

"(6) the term 'Secretary' means the Secretary of Education;

"(7) the term 'State educational agency' has the same meaning given that term under section 1471(16) of the Elementary and Secondary Education Act of 1965; and

"(8) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

SEC. 2303. REPEAL.

20 USC 3961-3973, 4001-4003, 4031, 4031 note, 4032-4037, 4051-4062.

Titles II, IV, VI, and VII of the Education for Economic Security Act are repealed.

PART D—VOCATIONAL EDUCATION

SEC. 2401. TECHNICAL AMENDMENT.

(a) USES OF FUNDS.—Section 201 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2331) is amended—

(1) in subsection (b)(4), by striking "or homemakers;" and inserting ", homemakers, or single pregnant women;"; and

(2) in subsection (f), by striking "and homemakers" each place it appears and inserting ", homemakers, and single pregnant women".

(b) DISTRIBUTION OF ASSISTANCE.—Section 202(a)(4) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2332(4)) is amended by striking "and homemakers;" and inserting ", homemakers, or single pregnant women;".

(c) CONFORMING AMENDMENT.—Section 202 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2332) is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

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SEC. 2402. THE NATIONAL CENTER FOR RESEARCH IN VOCATIONAL EDUCATION.

(a) IN GENERAL.—From funds appropriated for the fiscal year 1987 for section 404 of the Carl D. Perkins Vocational Education Act of 1984, the Secretary of Education shall provide financial assistance to a Center for Research in Vocational Education at The Ohio State University in the amount of $2,000,000 and the University of California at Berkeley in the amount of $2,000,000 to support ongoing activities, but not to support any new hiring after April 10, 1988, through December 31, 1988. Funds allocated to either institution shall be shared equitably according to the expenses of all subcontractors. The funds made available under this section shall not be affected by the outcome of the final decision on a grant award recipient for the National Center for Research in Vocational Education. Any funds received under this section shall be deducted from the total award made for a National Center for the 1988 grant award year.

(b) CONSTRUCTION.—Nothing in this section shall be construed to affect the decision with respect to the location of the National Center for Research in Vocational Education.

PART E—COMPREHENSIVE CHILD DEVELOPMENT PROGRAM

Comprehensive Child Development Centers Act of 1988.

SEC. 2501. SHORT TITLE.

42 USC 9801 note.

This part may be cited as the "Comprehensive Child Development Centers Act of 1988".

42 USC 9881 note.

SEC. 2502. STATEMENT OF PURPOSE.

It is the purpose of this part to provide financial assistance to projects, on a multiyear basis, that—

(1) are designed to encourage intensive, comprehensive, integrated, and continuous supportive services for infants and young children from low-income families;

(2) will enhance their physical, social, emotional, and intellectual development and provide support to their parents and other family members; and

(3) target services on infants and young children from families who have incomes below the poverty line and who, because of environmental, health, or other factors, need intensive and comprehensive supportive services to enhance their development.

SEC. 2503. PROGRAM AUTHORIZED.

Chapter 8 of subtitle A of title VI of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 42 U.S.C. 9801 et seq.) is amended by adding at the end the following:

"Subchapter E—Comprehensive Child Development Program

Comprehensive Child Development Act. Grants. 42 USC 9801 note.

"SHORT TITLE

"SEC. 670M. This subchapter may be cited as the "Comprehensive Child Development Act".

"CHILD DEVELOPMENT PROJECTS

42 USC 9881. Urban areas. Rural areas. Disadvantaged persons.

"SEC. 670N. (a)(1) The Secretary is authorized to make operating grants to eligible agencies in rural and urban areas to pay the Federal share of the cost of projects designed to encourage intensive and comprehensive supportive services which will enhance the physical, social, emotional, and intellectual development of low-income children from birth to compulsory school age, including providing necessary support to their parents and other family members.

Contracts.

"(2) The Secretary shall enter into contracts, agreements, or other arrangements with at least 10, but not more than 25, eligible agencies to carry out this section.

"(3) In carrying out this section, the Secretary shall consider—

"(A) the capacity of the eligible agency to administer the project for which assistance is sought;

"(B) the proximity of the eligible agency and facilities associated with the project to the infants, young children, parents, and other family members, to be served by the project, or the ability of the agency to provide offsite services;

"(C) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, health and mental health services, social services, child care, nutrition, income assistance, and other relevant services), with appropriate nonprofit private organizations involved in the delivery of intensive and comprehensive support services, and with the appropriate local educational agency;

"(D) the management and accounting skills of the eligible agency;

"(E) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the project, and

"(F) the eligible agency's involvement of project participants and community representatives in the planning and operation of the project.

"(b)(1)(A) The Secretary may make planning grants to eligible agencies to pay the Federal share of the cost of planning for projects funded under this section.

"(B)(i) No planning grant may be for a period longer than 1 year.

"(ii) Not more than 30 planning grants may be made under this subsection.

"(2) Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(A) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to the purposes of section 2402 of the Comprehensive Child Development Centers Act of 1988,

"(B) describe the eligible infants, young children, parents, and other family members to be served by the project, including the number to be served and information on the population and geographic location to be served;

"(C) describe how the needs of such infants and young children will be met by the project;

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"(D) describe the intensive and comprehensive supportive services that project planners intend to address in the development of the plan;

"(E) describe the manner in which the project will be operated together with the involvement of other community groups and public agencies;

"(F) specify the entities that the eligible agency intends to contact and coordinate activities with during the planning phase;

"(G) identify a planning phase advisory board which includes prospective project participants, representatives of the community in which the project will be located, and individuals with expertise in the services to be offered;

"(H) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the project; and

"(I) contain such other information as the Secretary may reasonably require.

Disadvantaged persons.

"(c)(1)(A) The Secretary shall make operating grants to eligible agencies selected in accordance with this section to pay the Federal share of the cost of carrying out projects for intensive and comprehensive supportive services for low-income infants, young children, parents, and other family members.

"(B) The Secretary shall ensure that there will be projects receiving grants under this section in rural areas.

"(C) In making operating grants in a fiscal year, the Secretary shall give priority to eligible entities that received operating grants under this section for the preceding fiscal year.

"(2)(A) To be eligible to receive an operating grant under this section, an eligible agency shall—

"(i) have a planning grant application approved under subsection (b) on file with the Secretary or have experience in conducting projects similar to the projects authorized by this section, and

"(ii) submit an operating grant application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(B) Each such application shall—

"(i) identify the population and geographic location to be served by the project;

"(ii) provide assurances that services are closely related to the identifiable needs of the target population;

"(iii) provide assurances that each project will provide directly or arrange for intensive and comprehensive support services;

"(iv) identify the referral providers, agencies, and organizations that the eligible entity will use to carry out the project for which such operating grant is requested;

"(v) provide assurances that intensive and comprehensive supportive services will be furnished to parents beginning with prenatal care and will be furnished on a continuous basis to infants and young children, as well as to their parents and other family members;

"(vi) describe how services will be furnished at offsite locations, if appropriate;

"(vii) describe the extent to which the eligible agency through its project, will coordinate and expand existing services as well as provide services not available in the area to be served by the project;

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"(viii) describe how the project will relate to the local educational agency as well as State and local agencies providing health, nutritional, education, social, and income maintenance services;

"(ix) provide assurances that the eligible agency will pay the non-Federal share of the cost of the project for which such operating grant is requested, from non-Federal sources;

"(x) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and met, and such other information as the Secretary may require;

"(xi) provide for an advisory committee consisting of—

"(I) participants in the project,

"(II) individuals with expertise in furnishing services the project offers and in other aspects of child health and child development, and

"(III) representatives of the community in which the project will be located;

"(xii) describe plans for evaluating the impact of the project; and

"(xiii) include such additional assurances, and agree to submit such necessary reports, as the Secretary may reasonably require.

"(d)(1)(A) The Secretary shall pay to eligible agencies having applications approved under subsections (b) and (c) the Federal share of the cost of the activities described in such applications.

"(B) The Federal share of such costs shall be 80 percent for each fiscal year.

"(C) The non-Federal share of such costs may be provided in cash or in kind fairly evaluated, including equipment or services.

"(D) Payments under this section may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(2) No planning grant to a single eligible agency may exceed $35,000.

"(e)(1) The Secretary shall, based on the projects assisted under this section, conduct or provide for, an evaluation of the success of projects authorized by this section.

"(2) Each eligible agency receiving a grant under this section shall furnish information requested in order to carry out the evaluation required by paragraph (1).

"(f) Not later than October 1, 1993, the Secretary shall prepare and submit to the Congress a report on the evaluation required by subsection (e)(1), together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate. Reports.

"LIMITATION

"SEC. 670O. For purposes of making any grant under section 670N, the Secretary may not take into consideration whether the applicant for such grant applies for or receives funds under subchapter B. 42 USC 9882.

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"APPLICABILITY OF CERTAIN RULES AND REGULATIONS

"SEC. 670P. Except when inconsistent with the provisions of this subchapter, the rules and regulations prescribed by the Secretary, as in effect from time to time, to carry out subchapter B shall apply to carrying out this subchapter to the extent that services provided under this subchapter are similar to services provided under subchapter B. 42 USC 9883.

"CONTINUING EVALUATION OF PROJECTS

"SEC. 670Q. (a) The Secretary shall provide, directly or through grants and contracts, for the continuing evaluation of projects under this subchapter in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services. Such evaluation shall include— 42 USC 9884. Contracts.

"(1) evaluations that measure the impact of such projects; and

"(2) where appropriate, comparisons of individuals who participate in such projects with appropriate control groups composed of individuals who do not participate in such projects.

"(b) Each evaluation conducted under subsection (a) of a project shall be conducted by persons who are not directly involved in the administration of such project.

"(c) In carrying out subsection (a), the Secretary may require eligible agencies to provide for independent evaluations.

"GENERAL ADMINISTRATION

42 USC 9885.

"SEC. 670R. The Secretary shall carry out this subchapter through the administrative entity of the Department of Health and Human Services used by the Secretary to carry out subchapter B.

"DEFINITIONS

42 USC 9886.

"SEC. 670S. As used in this subchapter—

"(1) the term 'early intervention services' has the same meaning given that term by section 672(2) of the Education of the Handicapped Act (20 U.S.C. 1472(2));

"(2) the term 'eligible agency' means a Head Start agency, an agency that is eligible to be designated as a Head Start agency under section 641, a community-based organization, an institution of higher education, a public hospital, a community development corporation, or a public or private nonprofit agency or organization specializing in delivering social services to infants or young children;

"(3) the term 'institution of higher education' has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

"(4) the term 'intensive and comprehensive supportive services' means—

"(A) in the case of infants and young children, services designed to enhance the physical, social, emotional, and intellectual development of such infants and children and such term includes infant and child health services (including screening and referral), child care that meets State licensing requirements, early childhood development programs, early intervention services for children with or at-

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risk of developmental delays, and nutritional services; and

"(B) in the case of parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and such term includes prenatal care; education in infant and child development, health, nutrition, and parenting; referral to education, employment counseling and training as appropriate; and assistance in securing adequate income support, health care, nutritional assistance, and housing;

"(5) the term 'local educational agency' has the same meaning given that term by section 1471(12) of the Elementary and Secondary Education Act of 1965;

"(6) the term 'low income' means persons who are from families having incomes below the poverty line as determined and revised in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)); and

"(7) the term 'Secretary' means the Secretary of Health and Human Services.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 9887.

"SEC. 670T. (a) Subject to subsection (b), there is authorized to be appropriated $25,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993 to carry out this subchapter.

"(b) Notwithstanding any other provision of law, no funds shall be available for fiscal year 1989 or 1990 to carry out this subchapter if

the amount appropriated for such fiscal year to carry out subchapter B is less than 104 percent of the amount appropriated for the preceding fiscal year to carry out subchapter B.

"(c) Funds made available in accordance with this section shall remain available for obligation and expenditure for one fiscal year succeeding the fiscal year for which such funds are appropriated.".

SEC. 2504. CONFORMING AMENDMENTS.

Section 638 of the Head Start Act (42 U.S.C. 9833) is amended—

(1) by inserting "(a)" after "SEC. 638."; and

(2) by adding at the end thereof the following:

"(b) For purposes of providing financial assistance under subsection (a) to agencies, the Secretary may not take into consideration whether such agency applies for or receives funds under subchapter E.".

PART F—HIGHER EDUCATION

SEC. 2601. ROBERT T. STAFFORD STUDENT LOAN PROGRAM.

(a) AMENDMENT TO TITLE OF PROGRAM.—Section 421 of the Higher Education Act of 1965 (hereafter in this section referred to as the "Act") is amended by adding at the end the following new subsection: 20 USC 1071.

"(c) The program established under this part may be referred to as the 'Robert T. Stafford Student Loan Program'.".

(b) CONFORMING AMENDMENT.—The heading for Part B of title IV of the Act is amended to read as follows: "PART B—ROBERT T. STAFFORD STUDENT LOAN PROGRAM". 20 USC prec. 1071.

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TITLE III—EDUCATIONAL ASSESSMENT, ACHIEVEMENT, AND ADMINISTRATION

PART A—STATISTICS

SEC. 3001. NATIONAL CENTER FOR EDUCATION STATISTICS.

(a) ADMINISTRATION.—Section 406(a) of the General Education Provisions Act (hereinafter in this section referred to as "the Act") is amended— 20 USC 1221e-1.

(1) by inserting "(1)" after "(a)";

(2) in the first sentence of subsection (a) by inserting "National" before "Center"; and

(3) by striking all after the first sentence and inserting the following: "The general design and duties of the National Center for Education Statistics shall be to acquire and diffuse among the people of the United States useful statistical information on subjects connected with education (in the most general and comprehensive sense of the word) particularly the retention of students, the assessment of their progress, the financing of institutions of education, financial aid to students, the supply of and demand for teachers and other school personnel, libraries, comparisons of the education of the United States and foreign nations and the means of promoting material, social, and intellectual prosperity through education.". Public information.

(b) COMMISSIONER OF EDUCATION STATISTICS.—(1) Section 406(a) of the Act is amended by inserting after paragraph (1) (as so designated in subsection (a)) the following new paragraph:

"(2)(A) The Center shall be headed by a Commissioner of Education Statistics who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner of the National Center for Education Statistics shall have substantial experience and knowledge of programs encompassed by the National Center The Commissioner shall be paid in accordance with section 5315 of title 5, United States Code. The Commissioner shall

serve for terms of 4 years, except that the initial appointment shall commence June 21, 1991.

"(B) There shall be within the Center (i) an Associate Commissioner for Statistical Standards and Methodology who shall be qualified in the field of mathematical statistics or statistical methodology; and (ii) an Associate Commissioner for Data Collection and Dissemination, who shall be an individual who has extensive knowledge of uses of statistics for policy purposes at all levels of American education, and who shall promote the participation of States, localities, and institutions of higher education in designing education statistics programs, encourage widespread dissemination and use of the Center's data, and promote United States participation in international and regional education statistics. The Commissioner may appoint such other Associate Commissioners as may be necessary and appropriate.".

(2) Section 5315 of title 5 of the United States Code, is amended by adding at the end thereof the following:

"Commissioner, National Center for Education Statistics.".

20 USC 1221e-1 note.

(3) TRANSITION PROVISION.—During the period beginning on the date of the enactment of this Act and ending on the date that an appointment is made pursuant to section 406(a)(2)(A) (as inserted by paragraph (1)), the individual serving as the director of the Center for Education Statistics on the date of the enactment of this Act may serve as acting Commissioner.

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(c) ADVISORY COUNCIL ON EDUCATION STATISTICS.—Section 406(c) of the Act is amended—

20 USC 1221e-1.

(1) in the first sentence of paragraph (1) by inserting "public" after "7";

(2) in paragraph (2)—

(A) in subparagraph (B) by striking "and";

(B) by striking the period at the end of subparagraph (C) and inserting a comma; and

(C) by adding at the end the following subparagraphs:

"(D) Commissioner of Education Statistics, and;

"(E) Chairman, National Commission on Libraries and Information Science.";

(3) in paragraph (4) by striking "Assistant Secretary" and inserting "Commissioner of Education Statistics";

(4) in paragraph (7) by striking "establishing" and inserting "advising on"; and

(5) by adding after paragraph (7) the following new paragraph:

"(8) The Commissioner may appoint such other ad hoc advisory committees as the Commissioner considers necessary.".

(d) CONDITION OF EDUCATION REPORT.—Section 406(d) of the Act is amended—

(1) in paragraph (1)—

(A) by striking "Secretary" and inserting "Commissioner";

(B) by adding "and" at the end of subparagraph (B);

(C) by striking "; and" at the end of subparagraph (C) and inserting a period; and

(D) by striking all of subparagraph (D);

(2) by redesignating paragraph "(2)" as paragraph "(3)"; and

(3) by adding after paragraph (1) the following new paragraph:

"(2) The Secretary shall submit annually a report to the Congress giving information of the State of Education in the Nation. In such report the Secretary shall clearly set forth the Secretary's views of critical needs in education and the most effective manner in which the nation and the Federal Government may address such needs.".

(e) AUTHORITY OF COMMISSIONER.—Section 406(e) of the Act is amended by adding at the end the following paragraphs:

Contracts.

"(3) In carrying out any authorized responsibilities under this section, the Commissioner may enter into contracts under regular competitive procedures of the Federal Government or other

financial arrangements. Contracts or financial arrangements may also include sole source contracts with States, additional institutions, organizations performing international studies, and associations that are nationally representative of a wide variety of States or nonpublic schools. The Commissioner shall submit annually a report to the appropriate committees of the Congress, listing each sole source contract, its purpose, and the reasons why competitive bidding was not feasible in each such instance.

Reports.

"(4) The Commissioner is authorized to prepare and publish such information and documents as may be of value in carrying out the purposes of this section. Periodically, the Commissioner shall issue a regular schedule of publications.

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"(5) In addition to the condition of education report under subsection (d), the Commissioner is authorized to make special reports on particular subjects whenever required to do so by the President or either House of Congress or when considered appropriate by the Commissioner.

Reports.

"(6) The Commissioner is authorized to use information collected by other offices in the Department of Education and by other executive agencies and to enter into interagency agreements for the collection of statistics for the purposes of this section. The Commissioner is authorized to arrange with any agency, organization, or institution for the collection of statistics for the purposes of this section and may assign employees of the Center to any such agency, organization, or institution to assist in such collection.

"(7) The Commissioner is authorized to use the statistical method known as sampling to carry out this section. Data may be collected from States, local educational agencies, schools, libraries, administrators, teachers, students, the general public, and such other individuals, persons, organizations, agencies, and institutions as the Commissioner may consider appropriate.

"(8) To assure the technical quality and the coordination of statistical activities of the Department, the Commissioner shall provide technical assistance to Department offices that gather data for statistical purposes. Such assistance may include a review of and advice on data collection plans, survey designs and pretests, the management of data, and the quality of reporting of data.

"(9) The Commissioner is authorized to—

"(A) select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Center, subject to the provisions of title 5, United States Code (governing appointments in the competitive service), and the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates); and

"(B) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the equivalent daily rate payable for grade GS–18 of the General Schedule under section 5332 of such title.".

(f) REPORTS ON EDUCATION INDICATORS.—Section 406(g) of the Act is amended— 20 USC 1221e-1.

(1) by inserting "(1)" after "(g)"; and

(2) by inserting after paragraph (1) (as so designated in paragraph (1) of this section) the following new paragraph:

"(2) In addition to other duties of the Commissioner under this section, it shall be the responsibility of the Commissioner to issue regular public reports to the President and Congress on dropout and retention rates, results of education, supply and demand of teachers and school personnel, libraries, financial aid and on such other education indicators as the Commissioner determines to be appropriate.".

(g) SPECIAL STUDY PANEL ON EDUCATION INDICATORS.—Section 406(g) of the Act is amended by adding after paragraph (2) (as added by subsection (F)) the following new paragraph:

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"(3) The Commissioner shall establish a special study panel to make recommendations concerning the determination of education indicators for study and report under paragraph (2). Not more than 18 months after the date of the enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, the Commissioner shall submit the report of the panel to the appropriate committees of the Congress. The panel shall cease to exist 6 months after the date of such submission.".

Reports.

Termination date.

(h) DROPOUT AND RETENTION STUDY AND REPORTS.—Section 406(g) of the Act is amended by adding after paragraph (3) (as added by subsection (g)) the following new paragraph:

20 USC 1221e-1.

"(4)(A) The Center shall conduct an annual national survey of dropout and retention rates as an education indicator

"(B) The Commissioner shall appoint a special task force to develop and test an effective methodology to accurately measure dropout and retention rates. Not later than 1 year after the date of enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, the task force shall submit a report of its recommendations, including procedures for implementation of such recommendations, to the Commissioner and the appropriate committees of the Congress.

"(C) On the second Tuesday after Labor Day of 1989 and on each such Tuesday thereafter, the Center shall submit a report to the appropriate committees of the Congress of the dropout and retention rate prevailing on March 30 of each such year.".

(i) FINANCIAL AID STUDIES.—Section 406(g) of the Act is amended by adding after paragraph (4) (as added by subsection (h)) the following new paragraph:

"(5)(A) As of March 30, 1990, and not less than every 3 years thereafter, the Center shall conduct a national study and survey of financial aid in accordance with the provisions of section 1303(c) of the Higher Education Amendments of 1986. The Center shall submit a report to the appropriate committees of the Congress concerning the findings of such study "

Reports.

"(B) Concurrent with each survey, the Center shall conduct longitudinal studies of freshman and graduating students concerning access, choice, persistence progress, curriculum and attainment. Such studies shall evaluate such students at 3 points over a 6-year interval.".

(j) DECENNIAL ANALYSIS OF SCHOOL DISTRICTS.—Section 406(g) of the Act is amended by adding after paragraph (5) (as added by subsection (i)) the following new paragraph:

"(6) On April 1, 1993, and every 10 years thereafter, the Center shall submit a report to the appropriate committees of the Congress concerning the social and economic status of children who reside in the areas served by different local educational agencies. Such report shall be based on data collected during the most recent decennial census.".

Reports.

(k) NATIONAL LONGITUDINAL SURVEY.—Section 406(g) of the Act is amended by adding after paragraph (6) (as added by subsection (j)) the following new paragraphs:

"(7) The Center shall conduct a study of a statistically relevant sample of students enrolled in elementary and secondary school and postsecondary education training concerning educational progress, intellectual development, and economic prosperity. The study shall collect data on participation in higher education, including enrollment, persistence, and attainment. Such study shall evaluate such students by such criteria at 2-year intervals. As of February 1, 1989, and every 8 years thereafter, the Commissioner shall select a sample of students enrolled in school for this study.

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Libraries.

"(8) The Center with the assistance of State library agencies, shall develop and support a cooperative system of annual data collection for public libraries. Participation shall be voluntary; however, all States should be encouraged to join the system.

Attention should be given to insuring timely, consistent and accurate reporting.".

(l) SCHOOL REFORM EFFORTS STUDY.—Section 406(g) of the Act is amended by adding after paragraph (8) (as added by subsection (k)) the following new paragraph: 20 USC 1221e-1.

"(9) The National Center for Education Statistics shall conduct a study on the effects of higher standards prompted by school reform efforts on student enrollment and persistence. The study shall examine academic achievement, and graduation rates of low-income, handicapped, limited English proficient, and educationally disadvantaged students.".

(m) CONFIDENTIAL TREATMENT OF DATA.—Section 406(d) of the Act is amended by adding after paragraph (3) the following new paragraph:

"(4)(A) Except as provided in this section, no person may—

"(i) use any individually identifiable information furnished under the provisions of this section for any purpose other than statistical purposes for which it is supplied;

"(ii) make any publication whereby the data furnished by any particular person under this section can be identified; or

"(iii) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports; or

"(B) No department, bureau, agency, officer, or employee of the Government, except the Commissioner of Education Statistics in carrying out the purposes of this section, shall require, for any reason, copies of reports which have been filed under this section with the Center for Education Statistics or retained by any individual respondent. Copies of such reports which have been so retained or filed with the Center or any of its employees or contractors or agents shall be immune from legal process, and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This subsection shall only apply to individually identifiable data (as defined in subparagraph (E)).

"(C) Whoever, being or having been an employee or staff member appointed under the authority of the Commissioner or in accordance with this section of the Act, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a), knowingly publishes or communicates any individually identifiable information (as defined in subparagraph (E)), the disclosure of which is prohibited under the provisions of subparagraph (A), and which comes into his or her possession by reason of employment (or otherwise providing services) under the provisions of this section, shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both. 102 STAT. 336

"(D) The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities including local education agencies, and employees of private organizations to assist the Center in performing the work authorized by this section, but only if such temporary staff is sworn to observe the limitations imposed by this section.

"(E) No collection of information or data acquisition activity undertaken by the Center shall be subject to any review, coordination or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, United States Code.

"(F) For the purposes of this section—

"(i) the term 'individually identifiable information' means any record, response form, completed survey or aggregation thereof from which information about individual students, teachers, administrators or other individual persons may be revealed;

"(ii) the term 'report' means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed; and

"(iii) as used in clause (i), the term 'persons' does not include States, local educational agencies, or schools.".

20 USC 1221e-1.

(n) EDUCATION INFORMATION AND DATA.—Section 406 of the Act is amended—

(1) in subsection (e)(1) by striking in the first sentence "of the Office";

(2) by redesignating subsection (h) as subjection (i);

(3) by inserting after subsection (g) a new subsection (h):

Establishment.

"(h)(1) There is established within the Center a National Cooperative Education Statistics System (hereafter referred to in this subsection as the 'System'). The purpose of the System is to produce and maintain, with the cooperation of the States, comparable and uniform educational information and data that are useful for policymaking at the Federal, State, and local level.

"(2) Each State that desires to participate in the system shall—

"(A) first develop with the Center the information and data-gathering requirements that are needed to report on the condition and progress of elementary and secondary education in the United States, such as information and data on—

"(i) schools and school districts;

"(ii) students and enrollments, including special populations;

"(iii) the availability and use of school libraries and their resources;

"(iv) teachers, librarians, and school administrators;

"(v) the financing of elementary and secondary education;

"(vi) student outcomes, including scores on standardized tests and other measures of educational achievement; and

"(vii) the progress of education reform in the States and the Nation; and

Contracts.

"(B) then enter into an agreement with the Center for that fiscal year to comply with those information and data-gathering requirements.

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"(3) To establish and maintain the system, the Commissioner—

"(A) shall—

"(i) provide technical assistance to the States regarding the collection, maintenance, and use of the System's data, including the timely dissemination of such data; and

"(ii) to the extent possible, implement standard definitions and data collection procedures; and

"(B) may—

"(i) directly, or through grants, cooperative agreements, or contracts, conduct research, development, demonstration, and evaluation activities that are related to the purposes of the System; and

"(ii) prescribe appropriate guidelines to ensure that the statistical activities of the States participating in the System produce data that are uniform, timely, and appropriately accessible.";

(4) in subsection (f)—

(A) by inserting "(1)" after "(f)"; and

(B) by adding after paragraph (1) the following paragraphs:

Contracts.

"(2) The Commissioner may contract with States to carry out subsection (h). Such contracts may not exceed the additional cost to the State—

"(A) of meeting the information and data gathering requirements in compliance with such subsection; or

"(B) for compliance with related efforts of the National Center for Education Statistics to achieve comparable and uniform data consistent with the purposes of this subsection.".

(o) STATE TRAINING PROGRAM.—Section 406(b)(3) of the Act is amended by adding before the semicolon the following: "(and shall establish a special program to train employees of such State and local agencies in the use of the Center's standard statistical procedures and concepts and may establish a fellows program to temporarily appoint such employees as fellows at the Center for the purpose of familiarization with the operations of the Center)". 20 USC 1221e-1.

(p) AUTHORIZATION OF APPROPRIATIONS.—

(1) Section 406(f)(1) of the Act (as so redesignated in subsection (m) of this section) is amended to read as follows:

"(f)(1) There are authorized to be appropriated for the purposes of this section (including salaries and expenses) $42,323,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.".

(2) Section 405(f)(1) of the Act is amended by striking "and section 406 of this Act". 20 USC 1221e.

(q) CONFORMING AMENDMENTS.—The heading of section 406 of the Act is amended to read as follows:

"NATIONAL CENTER FOR EDUCATION STATISTICS".

SEC. 3002. ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 DATA.

Section 405(e)(1)(A) of the General Education Provisions Act is amended by inserting before the semicolon ", including data on the performance in these areas of students served by chapter 1 of the Elementary and Secondary Education Act of 1965 and chapter 1 of the Education Consolidation and Improvement Act of 1981".

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PART B—FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING

Fund for the Improvement and Reform of Schools and Teaching Act. 20 USC 4801 note.

SEC. 3201. SHORT TITLE.

This part may be cited as the "Fund for the Improvement and Reform of Schools and Teaching Act".

SEC. 3202. ESTABLISHMENT OF FUND. 20 USC 4801.

There is established a Fund for the Improvement and Reform of Schools and Teaching.

Subpart 1—Grants for Schools and Teachers

SEC. 3211. FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING. 20 USC 4811.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to, and enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, nonprofit organizations, individual schools, consortia of such schools, and consortia of such schools and institutions, to improve educational opportunities for and the performance of elementary and secondary school students and teachers by— Contracts.

(1) helping educationally disadvantaged or at risk children meet higher educational standards;

(2) providing incentives for improved performance;

(3) strengthening school leadership and teaching;

(4) promoting closer ties among school teachers, administrators, families and the local community;

(5) providing opportunities for teacher enrichment and other means to improve the professional status of teachers;

(6) encouraging projects that reallocate existing resources (both human and financial) to serve children better by refocusing priorities;

(7) allowing local schools to establish closer ties with an institution of higher education to increase educational achievement;

(8) increasing the number and quality of minority teachers;

(9) providing entry-year assistance to new teachers and administrators;

(10) improving the teacher certification process, especially for schools, school districts, or States facing serious shortages; and

(11) encouraging pride in schools by teaching students to be responsible for their school environment, involving students in the care and maintenance of their classrooms and promoting individual responsibility and involvement in civic activities.

(b) PRIORITY RULE.—The Secretary shall give priority to proposed projects that—

(1) will benefit students or schools with below average academic performance;

(2) will lead to increased access of all students to a high quality education; and

(3) develop or implement systems for providing incentives to schools, administrators, teachers, students, or others to make measurable progress toward specific goals of improved educational performance.

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(c) ADMINISTRATIVE RULE.—The Secretary shall carry out the provisions of this part through the Board established under section 3231.

20 USC 4812.

SEC. 3212. APPLICATIONS.

(a) CONTENTS OF APPLICATIONS.—(1)(A) For grants described under this subpart, each applicant shall, if relevant, describe how the program relates to the priorities listed in section 3211(b). Where appropriate, proposals shall contain a description of the incentive system described in section 3211(b)(3), including specific goals and timetables for progress toward such goals.

(B) For the purpose of this section, incentives may include financial rewards, regulatory waivers, open enrollment among schools, grants to schools for innovative projects, or other rewards for meeting specific goals.

(C) For the purpose of this section, the goals described in subparagraph (A) may include increased graduation rates, reduced dropout rates, increased attendance rates, increased student achievement, reduced rates of incidents of juvenile delinquency or vandalism, or other goals of educational improvement.

(2)(A) Each teacher and administrator desiring to receive a grant at the school level shall submit an application for school level projects involving an individual school or a consortium of schools. Each application shall contain assurances that the project will be carried out under the responsibility of a full-time teacher or school administrator.

(B) Each such application shall be reviewed by the appropriate local educational agency. The local educational agency shall act as the fiscal agent in administering the school's grant to the school, but funds must be expended at the school level.

(b) STATE EDUCATIONAL AGENCY REVIEW.—Each application for a grant under this subpart (other than an application from a State educational agency) shall be forwarded to the appropriate State educational agency for review and comment, if the State educational agency requests the opportunity for review. The State educational agency must complete its review of the application and comment to the Secretary within 30 calendar days of receipt.

(c) SPECIAL EVALUATION RULE.—In evaluating an application for a grant or contract under this subpart, the Secretary shall consider the extent to which the proposed project is likely to improve teaching and learning at the school level.

Subpart 2—Family-School Partnership

20 USC 4821.

SEC. 3221. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) it has been clearly demonstrated that parent involvement

is directly related to better student achievement, attitudes, and performance in school;

(2) demographics of the American family are changing to the degree that significant numbers of children attending school come from families with single parents, families in which both parents are employed outside the home, or where the primary caregiver is not the biological parent;

(3) the demographics mean that current approaches to developing and maintaining partnerships with educators in compensatory education programs require review and modification to make them more responsive to the needs of both families and schools; and

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(4) effective approaches to more fully involving families as partners in their children's education should be encouraged as a matter of Federal policy.

(b) PURPOSE.—The purpose of this subpart is to encourage eligible local educational agencies to increase the involvement of families in the improvement of the educational achievement of their children in the preschool, elementary, and secondary schools within such agency.

SEC. 3222. ELIGIBLE AGENCY.

20 USC 4822.

In order to be eligible to receive a grant under this subpart, a local educational agency must be eligible to receive a grant under section 1005 of the Elementary and Secondary Education Act of 1965.

SEC. 3223. PROGRAM AUTHORIZED.

Grants.
20 USC 4823.

(a) GENERAL AUTHORITY.—The Secretary, through the Fund, is authorized to make demonstration grants to eligible local educational agencies for the development of innovative, promising family-school educational partnership activities designed to—

(1) support the efforts of families, including training, to the maximum extent practicable, to work with children in the home to attain both the instructional objectives of the schools within eligible local educational agencies and instill positive attitudes about the importance of education;

(2) train teachers and other staff personnel involved in the program supported under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to work effectively as educational partners with the families of participating students;

(3) train families, teachers and other staff personnel in the schools within such agency to build an educational partnership between home and school; and

(4) evaluate how well family involvement activities of the schools within such agency are working, what barriers exist to greater participation, and what steps need to be taken to expand participation in such family involvement activities.

(b) USES OF FUNDS.—The activities and procedures for which grants may be made under this subpart may include—

(1) training programs for the family on the family's educational responsibilities and reasonable and necessary expenditures associated with the attendance of parents or guardians at training sessions;

(2) planning and development of new school procedures and practices to meet the changing demographic characteristics of the families of school-age children;

(3) planning and development of modifications of school procedures and practices necessary for the involvement of parents of special groups, including minorities, disadvantaged, gifted and talented, and students with handicaps;

(4) hiring, training, and use of educational personnel in eligible local educational agencies to coordinate family involvement activities and to foster communications among families, educators, and students;

(5) development and purchase by a local educational agency of educational materials where such materials are commercially unavailable to reinforce school learning at home and assistance

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in implementing other home-based education activities that reinforce and extend classroom instruction and student motivation; and

(6) securing technical assistance, including training, to design and carry out family involvement programs.

(c) PRIVATE SCHOOL STUDENTS.—An application may, consistent with the number of children enrolled in private elementary and secondary schools located in the school district of an eligible educational agency, provide for the participation of such children, their families and teachers.

Subpart 3—Administrative Provisions

20 USC 4831.

SEC. 3231. BOARD AUTHORIZED.

(a) FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING BOARD ESTABLISHED.—(1) There is established the Fund Board.

(2)(A) The Board shall—

(i) advise the Secretary concerning developments in education that merit the attention of the Secretary;

(ii) identify promising initiatives to be supported under this part; and

(iii) advise the Secretary and the Director of the Fund on the selection of projects under consideration for support, planning documents, guidelines, and procedures for grant competitions carried out by the Fund.

(B) The Secretary shall provide such information and assistance as may be necessary to enable the Board to carry out its functions under this part.

(3)(A) The Board shall be composed of 15 members and the Secretary. Appointed members of the Board shall be appointed from among individuals who have extensive backgrounds in the field of education and shall represent a broad range of viewpoints and experience.

(B)(i) The term of office of each member of the Board shall be 3 years, except that, subject to the provisions of paragraphs (4) and (5), the members first taking office shall serve as designated by the Secretary, one-third of the members for terms of 1 year, one-third of the members for terms of 2 years, and one-third of the members for terms of 3 years;

(ii) Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of such member was appointed. No Board member may serve more than 2 consecutive terms.

(4) The initial membership of the Board shall be appointed by the Secretary after consultation with appropriate educational organizations and other interest groups.

(5) As vacancies occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board. The Board shall nominate at least 3 individuals for each vacancy.

(6) The Board shall elect a chairman and vice-chairman from among its membership.

(7) The Board shall meet at least 3 times each year. A meeting

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shall also be held whenever one-third of the Board members request in writing that a meeting be held. A majority of the Board shall constitute a quorum.

(b) DIRECTOR OF THE FUND.—(1) The Secretary shall appoint a Director of the Fund to serve a 4-year term. No individual may serve as Director for more than 8 years.

(2) The Director shall advise the Board about developments in education that merit the attention of the Board, identify promising initiatives, coordinate the work of the Fund with the work of the Fund for the Improvement of Postsecondary Education, and provide

such information and assistance as may be necessary to enable the Board to carry out its functions. The Director may offer comments to the Board on any application to the Fund.

(3) The Director shall—

(A) consult with the Board on priorities for the improvement of education,

(B) design grant competitions,

(C) solicit proposals,

(D) administer grant competitions,

(E) review and prioritize proposals,

(F) monitor funded projects, and

(G) disseminate the results of successful projects.

(c) PRIORITIES RULE.—In January of every calendar year, the Board shall advise the Secretary and the Congress of the priorities of the Board for the improvement of education and the implications of the priorities for the Fund. The Secretary shall give careful consideration to the priorities set forth by the Board. By December 31 of each calendar year, the Director shall provide the Congress with a report for that year summarizing the projects funded for that year. Reports.

(d) REVIEW AND EVALUATION PROCEDURES.—The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this part. The procedures established under this subsection for reviewing grant applications or contracts for financial assistance under this Act may not be subject to any review outside of officials responsible for the administration of the Fund.

(e) PROPOSAL REVIEW.—In reviewing proposals, the Director shall consider the need for the proposed project and its plan of operation, educational value, budget and cost effectiveness, plan for evaluation, proposed impact, expected outcomes, potential transferability to other settings, and other factors as appropriate with respect to the goals and priorities of the Fund. The Secretary shall also consider, to the extent practicable, the geographic distribution of the projects selected for funding. The Secretary shall take appropriate steps to ensure that new applicants are encouraged to participate in any grant competition sponsored by the Fund for the Improvement and Reform of Schools and Teaching. Grants.

(f) PERSONNEL.—The Secretary may appoint for terms not to exceed 3 years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than 7 technical employees to administer this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

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SEC. 3232. DISSEMINATION AND REPORTING. 20 USC 4832.

(a) EXEMPLARY PROJECTS.—The Secretary shall take appropriate steps to ensure that exemplary projects that are developed with assistance furnished under this part are made available to institutions of higher education and State and local educational agencies. In carrying out this paragraph the Secretary and Director shall ensure that exemplary projects apply to the National Diffusion Network for dissemination through the procedures established by that program.

(b) REPORT.—The Secretary shall submit a final report to Congress not later than June 1, 1990. The report shall describe the programs assisted by this part, document the success of such programs in improving education, and make such recommendations as the Secretary deems appropriate.

(c) REPORT FOR CONTINUED FUNDING RULE.—As a condition to continue to receive funding after the first year of a multi-year project, the project administrator shall submit an annual report to describe the activities conducted during the preceding year and the progress that has been made toward reaching the goals described in its application, if applicable.

20 USC 4833.

SEC. 3233. COORDINATION WITH THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

In order to facilitate coordination between the Fund and the Fund for the Improvement of Postsecondary Education, the Director of the Fund shall meet regularly with the Director of the Fund for the Improvement of Postsecondary Education. The Board of the Fund shall meet at least once each year with the Board of the Fund for the Improvement of Postsecondary Education to discuss priorities and projects to be funded.

Subpart 4—General Provisions

20 USC 4841.

SEC. 3241. SPECIAL GRANT RULES.

(a) GRANT CONDITIONS.—(1) Federal funds paid under this part shall supplement, not supplant, other resources available to the grantee.

(2) Financial assistance made under this part is not intended to be used for the acquisition of capital equipment as a primary purpose.

(b) DISTRIBUTION OF FUNDS.—(1) At least 25 percent of the funds appropriated for the Fund in any fiscal year shall be used for grants to applicants described in section 3212(a)(2)(A).

(2) Grants to a single school as described in section 3212(a)(2)(A) may not be less than $5,000 nor more than $125,000 in any fiscal year.

(3) No grant may be made for more than a 3-year period.

20 USC 4842.

SEC. 3242. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out the provisions of this part $30,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990, 1991, 1992, and 1993.

(b) RESERVATIONS.—

(1) The Secretary shall reserve one-third of the funds appropriated for activities under subpart 2 of this part.

(2) The Secretary shall reserve $150,000 from funds appropriated for activities authorized by section 3232.

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20 USC 4843.

SEC. 3243. DEFINITIONS.

For the purpose of this part—

(1) the term "at risk" means students who, because of learning deficiencies, lack of school readiness, limited English proficiency, poverty, educational or economic disadvantage, or physical or emotional handicapping conditions face greater risk of low educational achievement and have greater potential of becoming school dropouts;

(2) the term "Board" means the Fund Board established under section 3231;

(3) the term "Fund" means the Fund for the Improvement and Reform of Schools and Teaching established under section 3202; and

(4) the term "Secretary" means the Secretary of Education.

PART C—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

National Assessment of Education Progress Improvement Act.
20 USC 1221 note.

SEC. 3401. SHORT TITLE.

This part may be cited as the "National Assessment of Educational Progress Improvement Act".

20 USC 1221e-1 note.

SEC. 3402. STATEMENT OF PURPOSE.

The purpose of this part is to improve the effectiveness of our Nation's schools by making objective information about student performance in selected learning areas available to policymakers at the national, regional, State, and local levels. To enhance its utility, such information shall be both representative and comparable and shall be maintained in a manner that ensures the privacy of individual students and their families. It is not the purpose of this Act to

authorize the collection or reporting of information on student attitudes or beliefs or on other matters that are not germane to the acquisition and analysis of information about academic achievement.

SEC. 3403. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

(a) GENERAL AUTHORITY.—Section 406 of the General Education Provisions Act (hereafter in this part referred to as "the Act" and as amended by section 3001 of this title) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following: 20 USC 1221e-1.

"(i)(1) With the advice of the National Assessment Governing Board established by paragraph (5)(a)(i), the Commissioner shall carry out, by grants, contracts, or cooperative agreements with qualified organizations, or consortia thereof, a National Assessment of Educational Progress. The National Assessment of Educational Progress shall be placed in the National Center for Education Statistics and shall report directly to the Commissioner for Educational Statistics. The purpose of the National Assessment is the assessment of the performance of children and adults in the basic skills of reading, mathematics, science, writing, history/geography and other areas selected by the Board. Grants. Contracts.

"(2)(A) The National Assessment shall provide a fair and accurate presentation of educational achievement in skills, abilities, and knowledge in reading, writing, mathematics, science, history/geography, and other areas specified by the Board, and shall use sampling techniques that produce data that are representative on a national and regional basis and on a State basis pursuant to subparagraphs (C)(i) and (C)(ii). In addition, the National Assessment shall— 102 STAT. 345 Reports.

"(i) collect and report data on a periodic basis, at least once every 2 years for reading and mathematics; at least once every 4 years for writing and science; and at least once every 6 years for history/geography and other subject areas selected by the Board;

"(ii) collect and report data every 2 years on students at ages 9, 13, and 17 and in grades 4, 8, and 12;

"(iii) report achievement data on a basis that ensures valid reliable trend reporting;

"(iv) include information on special groups.

"(B) In carrying out the provisions of subparagraph (A), the Secretary and the Board appointed under paragraph (5) shall assure that at least 1 of the subject matters in each of the 4 and 6 year cycles described in subparagraph (A)(i) will be included in each 2 year cycle Assessment.

"(C)(i) The National Assessment shall develop a trial mathematics assessment survey instrument for the eighth grade and shall conduct a demonstration of the instrument in 1990 in States which wish to participate, with the purpose of determining whether such an assessment yields valid, reliable State representative data.

"(ii) The National Assessment shall conduct a trial mathematics assessment for the fourth and eighth grades in 1992 and, pursuant to subparagraph (6)(D), shall develop a trial reading assessment to be administered in 1992 for the fourth grade in States which wish to participate, with the purpose of determining whether such an assessment yields valid, reliable State representative data.

"(iii) The National Assessment shall ensure that a representative sample of students participate in such assessments.

"(iv) No State may agree to participate in the demonstration described in this subsection without full knowledge of the process for consensus decisionmaking on objectives to be tested, required in paragraph (6)(E), and of assessment demonstration standards for sampling, test administration, test security, data collection, validation and reporting. States wishing to participate shall sign an agreement developed by the Commissioner. A participating State shall review and give permission for release of results from any test of its students administered as a part of this demonstration prior to Contracts.

the release of such data. Refusal by a State to release its data shall not restrict the reporting of data from other States that have approved the release of such data.

Reports.

"(v) The Commissioner shall provide for an independent evaluation conducted by a nationally recognized organization (such as the National Academy of Sciences or the National Academy of Education) of the pilot programs to assess the feasibility and validity of assessments and the fairness and accuracy of the data they produce. The report shall also describe the technical problems encountered and a description about what was learned about how to best report data from the National Assessment of Educational Progress. The results of this report will be provided to the Congress and to States which participated in assessments pursuant to paragraph (C) (i) and (ii) within 18 months of the time such assessments were conducted.

"(D)(i) The National Assessment shall have the authority to develop and conduct, upon the direction of the Board and subject to the availability of appropriations, assessments of adult literacy.

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"(3)(A) The National Assessment shall not collect any data that are not directly related to the appraisal of educational performance, achievements, and traditional demographic reporting variables, or to the fair and accurate presentation of such information.

"(B) The National Assessment shall provide technical assistance to States, localities, and other parties that desire to participate in the assessment to yield additional information described in paragraph (2).

Public information.

"(4)(A) Except as provided in subparagraph (B), the public shall have access to all data, questions, and test instruments of the National Assessment.

Classified information.

"(B)(i) The Commissioner shall ensure that all personally identifiable information about students, their educational performance, and their families and that information with respect to individual schools remain confidential, in accordance with section 552a of title 5, United States Code.

"(ii) Notwithstanding any other provision of the law, the Secretary may decline to make available to the public for a period not to exceed 10 years following their initial use cognitive questions that the Secretary intends to reuse in the future.

"(C) The use of National Assessment test items and test data employed in the pilot program authorized in subsection (2)(C) to rank, compare, or otherwise evaluate individual students, schools, or school districts is prohibited.

Establishment.

"(5)(A)(i) There is established the National Assessment Governing Board (hereafter in this section referred to as the 'Board').

"(ii) The Board shall formulate the policy guidelines for the National Assessment.

"(B) The Board shall be appointed by the Secretary in accordance with this subparagraph and subparagraphs (C), (D), and (E). The Board shall be composed of—

"(i) two Governors, or former Governors, who shall not be members of the same political party;

"(ii) two State legislators, who shall not be members of the same political party;

"(iii) two chief State school officers;

"(iv) one superintendent of a local educational agency;

"(v) one member of a State board of education;

"(vi) one member of a local board of education;

"(vii) three classroom teachers representing the grade levels at which the National Assessment is conducted;

"(viii) one representative of business or industry;

"(ix) two curriculum specialists;

"(x) two testing and measurement experts;

"(xi) one nonpublic school administrator or policymaker;

"(xii) two school principals, one elementary and one secondary;

"(xiii) three additional members who are representatives of the general public, including parents.

The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio member of the Board as a nonvoting member.

"(C)(i) The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender and cultural balance and diversity and that it exercises its independent judgment, free from inappropriate influences and special interests. 102 STAT. 347

"(ii) In the exercise of its functions, powers, and duties, the Board shall hire its own staff and shall be independent of the Secretary and the other offices and officers of the Department of Education.

"(iii) The Secretary may appoint, at the direction of the Board, for terms not to exceed 3 years, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than 6 technical employees to administer this subsection who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(D)(i) The members of the Assessment Policy Committee, serving on the date of enactment of the National Assessment of Educational Progress Improvement Act, shall become members of the Board for the remainder of the terms of the appointment to the Assessment Policy Committee.

"(ii) To complete the initial membership of the Board, the Secretary shall appoint members of the Board as necessary in the categories described in subparagraph (B) for which there are no members continuing from the Assessment Policy Committee on the date of enactment of the National Assessment of Educational Progress Improvement Act. The Secretary shall appoint such members from among nominees furnished by the Governors, chief State school officers, education associations and organizations, the National Academy of Sciences, the National Academy of Education, parent organizations, and learned societies.

"(iii) As vacancies occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board after consultation with representatives of the groups listed in subparagraph (B). For each vacancy the Board shall nominate at least 3 individuals who, by reason of experience or training, are qualified in that particular Board vacancy.

"(E) Members of the Board appointed in accordance with this paragraph shall serve for terms not to exceed 4 years which shall be staggered, as determined by the Secretary, subject to the provisions of subparagraph (D)(i). Any appointed member of the Board who changes status under subparagraph (B) during the term of the appointment of the member may continue to serve as a member until the expiration of that term.

"(6)(A) In carrying out its functions under this subsection, the Board shall be responsible for—

"(i) selecting subject areas to be assessed (consistent with paragraph (2)(A));

"(ii) identifying appropriate achievement goals for each age and grade in each subject area to be tested under the National Assessment;

"(iii) developing assessment objectives;

"(iv) developing test specifications;

"(v) designing the methodology of the assessment;

"(vi) developing guidelines and standards for analysis plans and for reporting and disseminating results;

"(vii) developing standards and procedures for interstate, regional and national comparisons; and

"(viii) taking appropriate actions needed to improve the form and use of the National Assessment.

"(B) The Board may delegate any functions described in subparagraph (A) to its staff. 102 STAT. 348

"(C) The Board shall have final authority on the appropriateness of cognitive items.

"(D) The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

"(E) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents and concerned members of the general public.

Reports. "(F) The Secretary shall report to the Board at regular intervals of the Department's action to implement the decisions of the Board.

"(G) Any activity of the Board or of the organization described in paragraph (1), shall be subject to the provisions of this subsection.

"(7)(A) Not to exceed 10 percent of the funds available for this subsection may be used for administrative expenses (including staff, consultants and contracts authorized by the Board) and to carry out the functions described in paragraph (6)(A).

"(B) For the purposes of its administrative functions, the Board shall have the authorities authorized by the Federal Advisory Committee Act and shall be subject to the open meeting provisions of that law.

"(8)(A) Participation in the National and Regional Assessments by State and local educational agencies shall be voluntary.

Contracts. "(B) Participation in assessments made on a State basis shall be voluntary. The Secretary shall enter into an agreement with any State which desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to assure—

"(i) that the State will participate in the assessment;

"(ii) that the State will pay from non-Federal sources the non-Federal share of participation; and

"(iii) that the State agrees with the terms and conditions specified in subsection (a)(2)(C)(iv).

"(C)(i) For each fiscal year, the non-Federal share for the purpose of clause (ii) of subparagraph (B) shall be the cost of conducting the assessment in the State including the cost of administering the assessment at the school level for all schools in the State sample and the cost of coordination within the State.

"(ii) The non-Federal share of payments under this paragraph may be in cash or in kind.

Reports. "(9)(A) The Commissioner shall provide for continuing reviews of the National Assessment, including validation studies by the National Center for Education Statistics and solicitation of public comment on the conduct and usefulness of the National Assessment. The Secretary shall report to the Congress, the President, and the Nation on the findings and recommendations of such reviews. The Commissioner shall consider the findings and recommendations in designing the competition to select the organization through which the Office carries out the National Assessment.

"(B) The Commissioner shall, not later than 6 months after the date of enactment of the National Assessment of Educational Progress Improvement Act, publish a report setting forth plans for the collection of data for the 1990 assessment and plans for including other subject areas in the 1992 and later assessments. The report shall include methods by which the results of the National Assessment of Educational Progress may be reported so that the results are more readily available and more easily understood by educators, policymakers, and the general public, and methods by which items will be reviewed to identify and exclude items which reflect racial, cultural, gender, or regional bias. The report shall be developed after consultation with educators, State education officials, members of the Board appointed under paragraph (5), and the general public.

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Public information. "(C) The report required by this paragraph shall be submitted to the Congress and made available to the public. The appropriate authorizing committees of the Congress may request the Secretary to modify the plan contained in the report. The Secretary shall take such actions as may be appropriate to carry out the recommendations contained in the report.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 405 of the Act is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively. 20 USC 1221e.

(c) RESERVATION OF FUNDS FOR ASSESSMENTS.—(1) Section 405(f)(1)(D) of the Act (as redesignated by subsection (b)(1)) is amended to read as follows:

"(D) Not less than $9,500,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993, shall be available to carry out section 406(i) of this Act (relating to the National Assessment of Education Progress);".

(2) Section 405(f)(1)(E) of the Act (as redesignated by subsection (a)(1)) is amended by inserting a comma and "except for subsection (i) of that section," immediately after "Act".

PART D—GENERAL EDUCATION PROVISIONS ACT

SEC. 3501. ENFORCEMENT UNDER THE GENERAL EDUCATION PROVISIONS ACT.

(a) AMENDMENT TO PART E OF GEPA.—Part E of the General Education Provisions Act is amended to read as follows:

"PART E—ENFORCEMENT

"SEC. 451. OFFICE OF ADMINISTRATIVE LAW JUDGES.

Establishment. 20 USC 1234.

"(a) The Secretary shall establish in the Department of Education an Office of Administrative Law Judges (hereinafter in this part referred to as the 'Office') which shall conduct—

"(1) recovery of funds hearings pursuant to section 452 of this Act,

"(2) withholding hearings pursuant to section 455 of this Act,

"(3) cease and desist hearings pursuant to section 456 of this Act, and

"(4) other proceedings designated by the Secretary.

"(b) The administrative law judges (hereinafter 'judges') of the Office shall be appointed by the Secretary in accordance with section 3105 of title 5, United States Code.

"(c) The judges shall be officers or employees of the Department. The judges shall meet the requirements imposed for administrative law judges pursuant to section 3105 of title 5, United States Code. In choosing among equally qualified candidates for such positions the Secretary shall give favorable consideration to the candidates' experience in State or local educational agencies and their knowledge of the workings of Federal education programs in such agencies. The Secretary shall designate one of the judges of the Office to be the chief judge.

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"(d) For the purposes of conducting hearings described in subsection (a), the chief judge shall assign a judge to each case or class of cases. A judge shall be disqualified in any case in which the judge has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or the party's attorney as to make it improper for the judge to be assigned to the case.

"(e) The judge shall review and may require that evidence be taken on the sufficiency of the preliminary departmental determination as set forth in section 452.

"(f)(1) The proceedings of the Office shall be conducted according to such rules as the Secretary shall prescribe by regulation in conformance with the rules relating to hearings in title 5, United States Code, sections 554, 556, and 557. Regulations.

"(2) The provisions of title 5, United States Code, section 504, relating to costs and fees of parties, shall apply to the proceedings before the Department.

"(g)(1) In order to secure a fair, expeditious, and economical resolution of cases and where the judge determines that the discovered information is likely to elicit relevant information with respect

to an issue in the case, is not sought primarily for the purposes of delay or harassment, and would serve the ends of justice, the judge may order a party to—

"(A) produce relevant documents;

"(B) answer written interrogatories that inquire into relevant matters; and

"(C) have depositions taken.

The judge shall set a time limit of 90 days on the discovery period. The judge may extend this period for good cause shown. At the request of any party, the judge may establish a specific schedule for the conduct of discovery.

"(2) In order to carry out the provisions of subsections (f)(1) and (g)(1), the judge is authorized to issue subpoenas and apply to the appropriate court of the United States for enforcement of a subpoena. The court may enforce the subpoena as if it pertained to a proceeding before that court.

"(h) The Secretary shall establish a process for the voluntary mediation of disputes pending before the Office. The mediator shall be agreed to by all parties involved in mediation and shall be independent of the parties to the dispute. In the mediation of disputes the Secretary shall consider mitigating circumstances and proportion of harm pursuant to section 453. In accordance with rule 408 of the Federal Rules of Evidence, evidence of conduct or statements made in compromise negotiations shall not be admissible in proceedings before the Office. Mediation shall be limited to 120 days, except that the mediator may grant extensions of such period.

"(i) The Secretary shall employ, assign, or transfer sufficient professional personnel, including judges of the Office, to ensure that all matters brought before the Office may be dealt with in a timely manner.

20 USC 1234a.

"SEC. 452. RECOVERY OF FUNDS.

Grants.
Contracts.

"(a)(1) Whenever the Secretary determines that a recipient of a grant or cooperative agreement under an applicable program must
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return funds because the recipient has made an expenditure of funds that is not allowable under that grant or cooperative agreement, or has otherwise failed to discharge its obligation to account properly for funds under the grant or cooperative agreement, the Secretary shall give the recipient written notice of a preliminary departmental decision and notify the recipient of its right to have that decision reviewed by the Office and of its right to request mediation.

"(2) In a preliminary departmental decision, the Secretary shall have the burden of stating a prima facie case for the recovery of funds. The facts to serve as the basis of the preliminary departmental decision may come from an audit report, an investigative report, a monitoring report, or other evidence. The amount of funds to be recovered shall be determined on the basis of section 453.

Reports.

Records.

"(3) For the purpose of paragraph (2), failure by a recipient to maintain records required by law, or to allow the Secretary access to such records, shall constitute a prima facie case.

"(b)(1) A recipient that has received written notice of a preliminary departmental decision and that desires to have such decision reviewed by the Office shall submit to the Office an application for review not later than 30 days after receipt of notice of the preliminary departmental decision. The application shall be in the form and contain the information specified by the Office. As expeditiously as possible, the Office shall return to the Secretary for such action as the Secretary considers appropriate any preliminary departmental decision which the Office determines does not meet the requirements of subsection (a)(2).

"(2) In cases where the preliminary departmental decision requests a recovery of funds from a State recipient, that State recipient may not recover funds from an affected local educational agency unless that State recipient has—

"(A) transmitted a copy of the preliminary departmental decision to any affected subrecipient within 10 days of the date that the State recipient in a State administered program received such written notice; and

"(B) consulted with each affected subrecipient to determine whether the State recipient should submit an application for review under paragraph (1).

"(3) In any proceeding before the Office under this section, the burden shall be upon the recipient to demonstrate that it should not be required to return the amount of funds for which recovery is sought in the preliminary departmental decision under subsection (a).

"(c) A hearing shall be set 90 days after receipt of a request for review of a preliminary departmental decision by the Office, except that such 90-day requirement may be waived at the discretion of the judge for good cause.

"(d) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

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"(e) Parties to the proceeding shall have 30 days to file a petition for review of a decision of the administrative law judges with the Office of the Secretary.

"(f)(1) If a recipient submits a timely application for review of a preliminary departmental decision, the Secretary shall take no collection action until the decision of the Office upholding the preliminary Department decision in whole or in part becomes final agency action under subsection (g).

"(2) If a recipient files a timely petition for judicial review under section 458, the Secretary shall take no collection action until judicial review is completed.

"(3) The filing of an application for review under paragraph (1) or a petition for judicial review under paragraph (2) shall not affect the authority of the Secretary to take any other adverse action under this part against the recipient.

"(g) A decision of the Office regarding the review of a preliminary departmental decision shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

"(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action, or

"(2) remands the decision to the Office.

"(h) The Secretary shall publish decisions that have become final agency action under subsection (g) in the Federal Register or in another appropriate publication within 60 days.

Federal Register, publication.

"(i) The amount of a preliminary departmental decision under subsection (a) for which review has not been requested in accordance with subsection (b), and the amount sustained by a decision of the Office or the Secretary which becomes final agency action under subsection (g), may be collected by the Secretary in accordance with chapter 37 of title 31, United States Code.

"(j)(1) Notwithstanding any other provision of law, the Secretary may, subject to the notice requirements of paragraph (2), compromise any preliminary departmental decision under this section which does not exceed the amount agreed to be returned by more than $200,000, if the Secretary determines that (A) the collection of any or all or the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the preliminary departmental decision has been corrected and will not recur.

Federal Register, publication.

"(2) Not less than 45 days prior to the exercise of the authority to compromise a preliminary departmental decision pursuant to paragraph (1), the Secretary shall publish in the Federal Register a notice of intention to do so. The notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

"(k) No recipient under an applicable program shall be liable to return funds which were expended in a manner not authorized by law more than 5 years before the recipient received written notice of a preliminary departmental decision.

Claims.

"(l) No interest shall be charged arising from a claim during the administrative review of the preliminary departmental decision.

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20 USC 1234b.

"SEC. 453. MEASURE OF RECOVERY.

"(a)(1) A recipient determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, shall be required to return funds in an amount that is proportionate to the extent of the harm its violation caused to an identifiable Federal interest associated with the program under which the recipient received the award. Such amount shall be reduced in whole or in part by an amount that is proportionate to the extent the mitigating circumstances caused the violation.

"(2) For the purpose of paragraph (1), an identifiable Federal interest includes, but is not limited to, serving only eligible beneficiaries; providing only authorized services or benefits; complying with expenditure requirements and conditions (such as set-aside, excess cost, maintenance of effort, comparability, supplement-not-supplant, and matching requirements); preserving the integrity of planning, application, recordkeeping, and reporting requirements; and maintaining accountability for the use of funds.

"(b)(1) When a State or local educational agency is determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, and mitigating circumstances exist, as described in paragraph (2), the judge shall reduce such amount by an amount that is proportionate to the extent the mitigating circumstances caused the violation. Furthermore, the judge is authorized to determine that no recovery is justified when mitigating circumstances warrant. The burden of demonstrating the existence of mitigating circumstances shall be upon the State or local educational agency.

"(2) For the purpose of paragraph (1), mitigating circumstances exist only when it would be unjust to compel the recovery of funds because the State or local educational agency—

"(A) actually and reasonably relied upon erroneous written guidance provided by the Department;

"(B) made an expenditure or engaged in a practice after—

"(i) the State or local educational agency submitted to the Secretary, in good faith, a written request for guidance with respect to the expenditure or practice at issue, and

"(ii) a Department official did not respond within 90 days of receipt by the Department of such request; or

"(C) actually and reasonably relied upon a judicial decree issued to the recipient.

Mail.

"(3) A written request for guidance as described in paragraph (2) sent by certified mail (return receipt requested) shall be conclusive proof of receipt by the Department.

"(4) If the Secretary responds to a written request for guidance described in paragraph (2)(B) more than 90 days after its receipt, the State or local educational agency that submitted the request shall comply with the guidance received at the earliest practicable time.

"(5) In order to demonstrate the existence of the mitigating circumstances described in paragraph (2)(B), the State or local educational agency shall demonstrate that—

"(A) the written request for guidance accurately described the proposed expenditure or practice and included the facts necessary for a determination of its legality; and

"(B) the written request for guidance contained a certification by the chief legal officer of the State educational agency that such officer had examined the proposed expenditure or practice and believed the proposed expenditure or practice was permissible under then applicable State and Federal law; and

"(C) the State or local educational agency reasonably believed that the proposed expenditure or practice was permissible under then applicable State and Federal law.

"(6) The Secretary shall disseminate to State educational agencies responses to written requests for guidance, described in paragraph (5), that reflect significant interpretations of applicable law or policy.

"(c) The Secretary shall periodically review the written requests for guidance submitted under this section to determine the need for new or supplementary regulatory or other guidance under applicable programs.

"SEC. 454. REMEDIES FOR EXISTING VIOLATIONS. 20 USC 1234c

"(a) Whenever the Secretary has reason to believe that any recipient of funds under any applicable program is failing to comply substantially with any requirement of law applicable to such funds. the Secretary may—

"(1) withhold further payments under that program, as authorized by section 455;

"(2) issue a complaint to compel compliance through a cease and desist order of the Office, as authorized by section 456;

"(3) enter into a compliance agreement with a recipient to bring it into compliance, as authorized by section 457; or

"(4) take any other action authorized by law with respect to the recipient.

"(b) Any action, or failure to take action, by the Secretary under this section shall not preclude the Secretary from seeking a recovery of funds under section 452.

"SEC. 455. WITHHOLDING. 20 USC 1234d.

"(a) In accordance with section 454, the Secretary may withhold from a recipient, in whole or in part, further payments (including payments for administrative costs) under an applicable program.

"(b) Before withholding payments, the Secretary shall notify the recipient, in writing, of—

"(1) the intent to withhold payments;

"(2) the factual and legal basis for the Secretary's belief that the recipient has failed to comply substantially with a requirement of law; and

"(3) an opportunity for a hearing to be held on a date at least 30 days after the notification has been sent to the recipient.

"(c) The hearing shall be held before the Office and shall be conducted in accordance with the rules prescribed pursuant to subsections (f) and (g) of section 451 of this Act.

"(d) Pending the outcome of any hearing under this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

"(e) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

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"(f) The decision of the Office in any hearing under this section shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

"(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action; or

"(2) remands the decision of the Office.

20 USC 1234e.

"SEC. 456. CEASE AND DESIST ORDERS.

"(a) In accordance with section 454, the Secretary may issue to a recipient under an applicable program a complaint which—

"(1) describes the factual and legal basis for the Secretary's belief that the recipient is failing to comply substantially with a requirement of law; and

"(2) contains a notice of a hearing to be held before the Office on a date at least 30 days after the service of the complaint.

"(b) The recipient upon which a complaint has been served shall have the right to appear before the Office on the date specified and to show cause why an order should not be entered by the Office requiring the recipient to cease and desist from the violation of law charged in the complaint.

"(c) The testimony in any hearing held under this section shall be reduced to writing and filed with the Office. If upon that hearing the Office is of the opinion that the recipient is in violation of any requirement of law as charged in the complaint, the Office shall—

Reports.

"(1) make a report in writing stating its findings of fact; and

"(2) issue to the recipient an order requiring the recipient to cease and desist from the practice, policy, or procedure which resulted in the violation.

"(d) The report and order of the Office under this section shall become the final agency action when the recipient receives the report and order.

"(e) The Secretary may enforce a final order of the Office under this section which becomes final agency action by—

"(1) withholding from the recipient any portion of the amount payable to it, including the amount payable for administrative costs, under the applicable program; or

"(2) certifying the facts to the Attorney General who shall cause an appropriate proceeding to be brought for the enforcement of the order.

20 USC 1234f.

"SEC. 457. COMPLIANCE AGREEMENTS.

"(a) In accordance with section 454, the Secretary may enter into a compliance agreement with a recipient under an applicable program. The purpose of any compliance agreement under this section shall be to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.

"(b)(1) Before entering into a compliance agreement with a recipient, the Secretary shall hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. The recipient shall have the burden of persuading the Secretary that full compliance with the applicable requirements of law is not feasible until a future date.

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Federal Register, publication.

"(2) If the Secretary determines, on the basis of all the evidence presented, that full compliance is genuinely not feasible until a future date, the Secretary shall make written findings to that effect and shall publish those findings, along with the substance of any compliance agreement, in the Federal Register.

"(c) A compliance agreement under this section shall contain—

"(1) an expiration date not later than 3 years from the date of the written findings under subsection (b)(2), by which the recipient shall be in full compliance with the applicable requirements of law, and

"(2) those terms and conditions with which the recipient must comply until it is in full compliance.

"(d) If a recipient fails to comply with the terms and conditions of a compliance agreement under this section, the Secretary may consider that compliance agreement to be no longer in effect, and the Secretary may take any action authorized by law with respect to the recipient.

"SEC. 458. JUDICIAL REVIEW.

Courts, U.S.
20 USC 1234g.

"(a) Any recipient of funds under an applicable program that would be adversely affected by a final agency action under section 452, 455, or 456 of this Act, and any State entitled to receive funds under a program described in section 435(a) of this title whose application has been disapproved by the Secretary, shall be entitled to judicial review of such action in accordance with the provisions of this section. The Secretary may not take any action on the basis of a final agency action until judicial review is completed.

"(b) A recipient that desires judicial review of an action described in subsection (a) shall, within 60 days of that action, file with the United States Court of Appeals for the circuit in which that recipient is located, a petition for review of such action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28, United States Code.

Records.

"(c) The findings of fact by the Office, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Office to take further evidence, and the Office may make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(d) The court shall have jurisdiction to affirm the action of the Office or the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 459. USE OF RECOVERED FUNDS.

20 USC 1234h.

"(a) Whenever the Secretary recovers funds paid to a recipient under a grant or cooperative agreement made under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds if the Secretary determines that—

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"(1) the practices or procedures of the recipient that resulted in the violation of law have been corrected, and that the recipient is in all other respects in compliance with the requirements of that program;

"(2) the recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misuse of funds that resulted in the recovery; and

"(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

"(b) Any payments by the Secretary under this section shall be subject to such other terms and conditions as the Secretary considers necessary to accomplish the purposes of the affected programs, including—

"(1) the submission of periodic reports on the use of funds provided under this section; and

"(2) consultation by the recipient with students, parents, or representatives of the population that will benefit from the payments.

"(c) Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than 3 fiscal years following the fiscal year in which final agency action under section 452(e) is taken.

Federal Register, publication.

"(d) At least 30 days prior to entering into an arrangement under this section, the Secretary shall publish in the Federal Register a notice of intent to enter into such an arrangement and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least 30 days to submit comments to the Secretary regarding the proposed arrangement.

20 USC 1234i.

"SEC. 460. DEFINITIONS.

"For purposes of this part:

"(1) The term 'recipient' means a recipient of a grant or cooperative agreement under an applicable program.

"(2) The term 'applicable program' excludes programs authorized by the Higher Education Act of 1965 and assistance programs provided under the Act of September 30, 1950 (Public Law 874, 81st Congress), and the Act of September 23, 1950 (Public Law 815, 81st Congress).".

20 USC 1234 note.

(b) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective 180 days after the date of enactment of this Act.

(2) The amendments made by this part shall not apply to any case in which the recipient, prior to the effective date of this part, received a written notice that such recipient must return funds to the Department.

20 USC 1232d.

(c) CONFORMING AMENDMENTS.—Section 435(a) of the General Education Provisions Act is amended by striking "titles I and IV" and all that follows through "such Act)" and inserting "chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965)".

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TITLE IV—EDUCATION FOR NATIVE HAWAIIANS

20 USC 4901.

SEC. 4001. FINDINGS.

The Congress finds and declares that—

(1) the Federal Government retains the legal responsibility to enforce the administration of the State of Hawaii's public trust responsibility for the betterment of the conditions of Native Hawaiians;

(2) in furtherance of the responsibility for the betterment of the conditions of Native Hawaiians, Congress has the power to specially legislate for the benefit of Native Hawaiians;

(3) the attainment of educational success is critical to the betterment of the conditions of Native Hawaiians;

(4) it is the policy of the Federal Government to encourage the maximum participation of Native Hawaiians in the planning and management of Native Hawaiian Education Programs;

(5) Native Hawaiian students score below national norms on standardized education achievement tests;

(6) both public and private schools show a pattern of low percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

(7) Native Hawaiian students are over-represented among those qualifying for special education programs provided to learning disabled, educable mentally retarded, handicapped, and other such students;

(8) Native Hawaiians are disproportionately represented in many negative social and physical statistics, indicative of special educational needs—

(A) lower educational attainment among Native Hawaiians has been found to relate to lower socioeconomic outcomes;

(B) Native Hawaiian students are disproportionately under-represented in Institutions of Higher Education;

(C) Native Hawaiians are under-represented in both traditional white collar professions, health care professions, and the newly emerging technology based professions and are over-represented in service occupations;

(D) Native Hawaiians are beset with multiple health problems;

(E) Native Hawaiian children are disproportionately victimized by child abuse and neglect, a signal of family stress; and

(F) there are and will continue to be geographically rural isolated areas with a high Native Hawaiian population density; and

(9) special efforts in education recognizing the unique cultural and historical circumstances of Native Hawaiians are required

SEC. 4002. PURPOSE. 20 USC 4902.

It is the purpose of this title to— 102 STAT. 359

(1) authorize and develop supplemental educational programs to benefit Native Hawaiians,

(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including those made available by this title on the problem of Native Hawaiian education, and

(3) supplement and expand existing programs and authorities in the area of education to further the purposes of this title.

SEC. 4003. NATIVE HAWAIIAN MODEL CURRICULUM IMPLEMENTATION PROJECT. 20 USC 4903.

(a) CURRICULUM DEVELOPMENT AUTHORITY.—In order to implement the Kamehameha Elementary Education Program (KEEP) model curriculum developed by the Kamehameha Elementary Demonstration School in appropriate public schools, the Secretary shall make direct grants to— Grants.

(1) the State of Hawaii (University of Hawaii) for comprehensive teacher training;

(2) the State of Hawaii (Department of Education) for educational support services;

(3) the Kamehameha Schools/Bernice Pauahi Bishop Estate for continued research and development; and

(4) the Kamehameha Schools/Bernice Pauahi Bishop Estate and the State of Hawaii for the establishment of long-term followup and assessment activities.

(b) SPECIAL RULE.—By no later than school year 1992-1993, the Secretary shall assure that the State of Hawaii (Department of Education) has implemented the KEEP model curriculum in a minimum of twenty public schools.

(c) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989 through 1993, to carry out the provisions of this Act. Such funds shall remain available until expended.

SEC. 4004. NATIVE HAWAIIAN FAMILY-BASED EDUCATION CENTERS. 20 USC 4904.

(a) FAMILY-BASED EDUCATION CENTERS GENERAL AUTHORITY.—The Secretary shall make direct grants to Native Hawaiian Organizations (including Native Hawaiian Educational Organizations) to develop and operate a minimum of eleven Family-Based Education Centers throughout the Hawaiian Islands. Such centers shall include— Grants.

(1) Parent-Infant programs (prenatal through age 3);
(2) Preschool programs for four and five year-olds;
Research and development. (3) continued research and development; and
(4) a long term followup and assessment program.

(b) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for the centers described in subsection (a), there is authorized to be appropriated $2,400,000 for fiscal year 1988, and such sums as may be necessary for such centers for fiscal years 1989 through 1993. Such funds shall remain available until expended.

20 USC 4905.

SEC. 4005. NATIVE HAWAIIAN HIGHER EDUCATION DEMONSTRATION PROGRAM.

Grants.

(a) HIGHER EDUCATION GENERAL AUTHORITY.—The Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate for a demonstration program to provide Higher Education fellowship assistance to Native Hawaiian students. The demonstration program under this section may include—

(1) full or partial fellowship support for Native Hawaiian students enrolled at an accredited two or four year degree granting institution of higher education with awards to be based on academic potential and financial need;

(2) counseling and support services for such students receiving fellowship assistance pursuant to subsection (a)(1) of this section;

(3) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship assistance pursuant to subsection (a)(1) of this section;

Research and development. (4) appropriate research and evaluation of the activities authorized by this section; and

(5) implementation of faculty development programs for the improvement and matriculation of Native Hawaiian students.

(b) GRANTS AUTHORIZED.—The Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate for a demonstration project of fellowship assistance for Native Hawaiian students in post-bachelor degree programs. Such project may include—

(1) full or partial fellowship support for Native Hawaiian students enrolled at an accredited post-bachelor degree granting institution of higher education, with priority given to professions in which Native Hawaiians are under-represented and with awards to be based on academic potential and financial need;

(2) counseling and support services for such students receiving fellowship assistance pursuant to subsection (b)(1) of this section; and

(3) appropriate research and evaluation of the activities authorized by this section.

Contracts.

(c) SPECIAL CONDITION REQUIRED.—For the purpose of subsection (b) fellowship conditions shall be established whereby recipients obtain an enforceable contract obligation to provide their professional services, either during their fellowship or upon completion of post-bachelor degree program, to the Native Hawaiian community within the State of Hawaii.

(d) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated $1,250,000 for fiscal year 1988 and for each succeeding fiscal year through 1993 for the purpose of funding the fellowship assistance demonstration project under subsection (a).

(2) There are authorized to be appropriated $750,000 for fiscal year 1988, and for each succeeding fiscal year through 1993, for

the purpose of funding the fellowship assistance demonstration project provided under subsection (b).

(3) Funds appropriated under the authority of this subsection shall remain available until expended.

SEC. 4006. NATIVE HAWAIIAN GIFTED AND TALENTED DEMONSTRATION PROGRAM. 20 USC 4906.

(a) GIFTED AND TALENTED DEMONSTRATION AUTHORITY.—

(1) The Secretary shall provide a grant to, or enter into a contract with, the University of Hawaii at Hilo for— Grants. Contracts.

(A) the establishment of a Native Hawaiian Gifted and Talented Center at the University of Hawaii at Hilo, and

(B) for demonstration projects designed to—

(i) address the special needs of Native Hawaiian elementary and secondary school students who are gifted and talented students, and

(ii) provide those support services to their families that are needed to enable such students to benefit from the project.

Such grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee, shall be provided for a term of 3 years.

(2) After the term of the grant or contract provided, or entered into, under paragraph (1) has expired, the Secretary shall, for the purposes described in subparagraphs (A) and (B) of paragraph (1), provide a grant to, or enter into a contract with, the public, 4-year, fully accredited institution of higher education located in the State of Hawaii which has made the greatest contribution to Native Hawaiian students. Such grant or contract shall be provided on an annual basis. The grantees shall be authorized to subcontract when appropriate, including with the Children's Television Workshop. Children's Television Workshop.

(b) USES OF FUNDS.—Demonstration projects funded under this section may include—

(1) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to—

(A) the emotional and psychosocial needs of these students, and

(B) the provision of those support services to their families that are needed to enable these students to benefit from the projects;

(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions;

(3) the use of public television in meeting the special educational needs of such gifted and talented children;

(4) leadership programs designed to replicate programs for such children throughout the State of Hawaii and to other Native American peoples, including the dissemination of information derived from the demonstration projects conducted under this section; and

(5) appropriate research, evaluation, and related activities pertaining to—

(A) the needs of such children, and

(B) the provision of those support services to their families that are needed to enable such children to benefit from the projects.

(c) INFORMATION PROVISION.—The Secretary shall facilitate the establishment of a national network of Native Hawaiian and American Indian Gifted and Talented Centers, and ensure that the information developed by these centers shall be readily available to the educational community at large.

(d) ADMINISTRATIVE COSTS.—No more than 7 percent of the amounts appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for projects described in this section, there are authorized to be appropriated $1,000,000 for fiscal year 1988 and for each succeeding fiscal year through fiscal year 1993. Such sums shall remain available until expended.

20 USC 4907.

SEC. 4007. NATIVE HAWAIIAN SPECIAL EDUCATION PROGRAM.

Grants. Contracts.

(a) SPECIAL EDUCATION AUTHORITY.—The Secretary shall make grants to, and enter into contracts with, the State of Hawaii, or Native Hawaiian Organizations, to operate projects to address the special education needs of Native Hawaiian students. Such projects assisted under this section may include—

(1) the identification of Native Hawaiian children who are learning disabled, mentally or physically handicapped, educable mentally retarded, or otherwise in need of special education services;

(2) the conduct of educational activities consistent with part B of the Education of the Handicapped Act which hold reasonable promise of improving the provision of special education and related services to Native Hawaiian children who are identified as being handicapped; and

(3) appropriate research, evaluation and related activities pertaining to the needs of such children.

(b) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for such project, there is authorized to be appropriated $1,500,000 for fiscal year 1988 and for each succeeding fiscal year through 1993. Such sums shall remain available until expended.

20 USC 4908.

SEC. 4008. ADMINISTRATIVE PROVISIONS.

(a) APPLICATION REQUIRED.—No grant may be made under this title, nor any contract be entered into under this title, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this title.

(b) SPECIAL RULE.—Each application submitted under this title shall be accompanied by the comments of each local educational agency serving students who will participate in the project for which assistance is sought.

20 USC 4909.

SEC. 4009. DEFINITIONS.

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For purposes of this title—

(1) The term "Native Hawaiian" means any individual who is—

(A) a citizen of the United States,

(B) a resident of the State of Hawaii, and

(C) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii, as evidenced by—

(i) genealogical records,

(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

(iii) birth records of the State of Hawaii.

(2) The term "Secretary" means the Secretary of Education.

(3) The term "Native Hawaiian Educational Organization" means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians,

(B) has a demonstrated expertise in the education of Native Hawaiian youth, and

(C) has demonstrated expertise in research and program development.

(4) The term "Native Hawaiian Organization" means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians, and

(B) is recognized by the Governor of Hawaii for the purpose of planning, conducting, or administering programs (or portion of programs) for the benefit of Native Hawaiians.

(5) The term "elementary school" has the same meaning given that term under section 1471(7) of this Act.

(6) The term "local educational agency" has the same meaning given that term under section 1471(10) of this Act.

(7) The term "secondary school" has the same meaning given that term under section 1471(7) of this Act.

TITLE V—INDIAN EDUCATION

PART A—BUREAU AND CONTRACT SCHOOLS

Indian Education Amendments of 1988. 25 USC 2001 note.

SEC. 5101. SHORT TITLE.

This part may be cited as the "Indian Education Amendments of 1988".

SEC. 5102. PROHIBITION ON TRANSFERS OF BUREAU AND CONTRACT SCHOOLS.

Section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001) is amended—

(1) by adding at the end of subsection (g) the following new paragraph:

"(5) The Secretary may terminate, contract, transfer to any other authority, or consolidate or substantially curtail the operation or facilities of—

"(A) any Bureau funded school that is operated on or after April 1, 1987, or

"(B) any program of such a school that is operated on or after April 1, 1987,

only if the tribal governing body approves such action.",

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(2) by striking "Such standards and procedures shall require that whenever" in subsection (g)(3) and inserting in lieu thereof "Whenever",

(3) by inserting "transfer to any other authority," after "close," and after "closure," each place either term appears in paragraphs (3) and (4) of subsection (g), and

(4) by adding at the end thereof the following new subsection:

"(j) For purposes of this section, the term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.".

SEC. 5103. REPORT ON TEMPORARY ACTIONS TAKEN FOR A YEAR.

Section 1125 of the Education Amendments of 1978 (25 U.S.C. 2005) is amended—

(1) by redesignating subsection (d) as subsection (e),

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) A Bureau school may be closed or consolidated, and the programs of a Bureau school may be substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau school.

Public health and safety.

"(2)(A) In making determinations described in paragraph (1) before July 1, 1989, health and safety officers of the Bureau shall use the health and safety guidelines of the Bureau that were in effect on January 1, 1988.

Regulations.

"(B) Upon the enactment of the Indian Education Amendments of 1988, the Secretary shall conduct a review of the guidelines used by the Bureau in determining whether plant conditions at a Bureau school constitute an immediate hazard to health and safety. By no later than June 30, 1989, the Secretary shall publish in the Federal Register the final form of regulations which shall be used by health and safety officers of the Bureau in making such determinations.

Federal Register, publication.

"(C)(i) If—

"(I) the Secretary fails to publish in the Federal Register in final form the regulations required under subparagraph (B) before July 1, 1989, and

"(II) action described in paragraph (1) is taken after June 30, 1989, and before the date on which such regulations are published in final form in the Federal Register by reason of the condition of any plant,

an inspection of the condition of such plant shall be conducted by an appropriate tribal, county, municipal, or State health and safety officer to determine whether conditions at such plant constitute an immediate hazard to health and safety. Such inspection shall be completed by no later than the date that is 30 days after the date on which the action described in paragraph (1) is taken.

"(ii) The inspection required under clause (i) shall be conducted by a health and safety officer designated jointly by the Secretary and the tribes affected by the action described in paragraph (1). If the Secretary and such tribes are unable to agree on the designation of the health and safety officer, the Secretary shall designate the health and safety officer and shall provide notice of such designation to each of such tribes before the inspection is conducted by such officer.

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"(iii) If the health and safety officer conducting an inspection of a plant required under clause (i) determines that conditions at the plant do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made by reason of conditions at the plant shall immediately cease and any school closed by reason of conditions at the plant shall be reopened immediately.

Reports.

"(3) If—

"(A) a Bureau school is temporarily closed or consolidated, or the programs of a Bureau school are substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety, and

"(B) the Secretary estimates that the closure, consolidation, or curtailment will be more than 1 year in duration,

the Secretary shall submit to the Congress, by no later than the date that is 6 months after the date on which the closure, consolidation, or curtailment is initiated, a report which sets forth the reasons for such temporary actions and the actions the Secretary is taking to eliminate the conditions that constitute the hazard.".

SEC. 5104. ELIGIBILITY AND EXPANSION OF BUREAU FUNDED SCHOOLS.

Section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001) is amended—

(1) by striking out "Indian controlled contract schools (hereinafter referred to as 'contract schools')" in subsection (a) and inserting in lieu thereof "contract schools", and

(2) by adding at the end thereof the following new subsection:

"(k)(1)(A) The Secretary shall only consider the factors described in subparagraphs (B) and (C) in reviewing—

"(i) applications from any tribe for the awarding of a contract or grant for a school that has not previously received funds from the Bureau,

"(ii) applications from any tribe or Bureau school board for—

"(I) a school which has not previously been operated or funded by the Bureau, or

"(II) the expansion of any program currently funded by the Bureau which would increase the amount of funds received by the Indian tribe or school board under section 1128.

The Secretary shall give consideration to all of such factors, but none of such applications may be denied based primarily upon the geographic proximity of public education.

"(B) The Secretary shall consider the following factors relating to the program that is the subject of an application described in subparagraph (A):

"(i) the adequacy of facilities or the potential to obtain or provide adequate facilities;

"(ii) geographic and demographic factors in the affected areas;

"(iii) adequacy of the applicant's program plans or, in the case of a Bureau operated program, of projected needs analysis done either by a tribe or by Bureau personnel;

"(iv) geographic proximity of comparable public education; and

"(v) the stated needs of all affected parties, including (but not limited to) students, families, tribal governments at both the central and local levels, and school organizations.

"(C) The Secretary shall consider with respect to applications described in subparagraph (A) the following factors relating to all the educational services available at the time the application is considered: 102 STAT. 366

"(i) geographic and demographic factors in the affected areas;

"(ii) adequacy and comparability of programs already available;

"(iii) consistency of available programs with tribal educational codes or tribal legislation on education; and

"(iv) the history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

"(2)(A) The Secretary shall make a determination of whether to approve any application described in paragraph (1)(A) by no later than the date that is 180 days after the day on which such application is submitted to the Secretary.

"(B) If the Secretary fails to make the determination described in subparagraph (A) with respect to an application by the date described in subparagraph (A), the application shall be treated as having been approved by the Secretary.

"(3)(A) Any application described in paragraph (1)(A) may be submitted to the Secretary only if—

"(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application, and

"(ii) written evidence of such approval is submitted with the application.

"(B) Each application described in paragraph (1)(A)—

"(i) shall provide information concerning each of the factors described in paragraph (1)(B), and

"(ii) may provide information concerning the factors described in paragraph (1)(C).

"(4) Whenever the Secretary makes a determination to deny approval of any application described in paragraph (1)(A), the Secretary shall—

"(A) state the objections in writing to the applicant by no later than the date that is 180 days after the day on which the application is submitted to the Secretary,

"(B) provide assistance to the applicant to overcome stated objections, and

"(C) provide the applicant a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act, and an opportunity to appeal the objections raised by the Secretary.

"(5)(A) Except as otherwise provided in this paragraph, the action which is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective with the commencement of the academic year succeeding the fiscal year in which the application is approved, or at an earlier date determined by the Secretary. Effective date.

"(B) If an application is treated as having been approved by the Secretary by reason of paragraph (2)(B), the action that is the subject of the application shall become effective on the date that is 18 months after the date on which the application is submitted to the Secretary, or at an earlier date determined by the Secretary.

"(6)(A) Any application for expansion of the grade levels offered by a tribally controlled school which has been submitted to the Secretary prior to the date of enactment of this Act shall be reviewed under the regulations and guidelines in effect on the date on which such application was submitted, unless the applicant elects to have the provisions of this subsection apply to the review of such application.

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"(B) Notwithstanding any other provision of law, if the school board of the Bureau funded schools at the Pueblo of Zia and the Tama Settlement vote within the 2-year period beginning on the date of enactment of the Indian Education Amendments of 1988 to expand each of the schools to include kindergarten through grade 8, the schools shall be so expanded at the beginning of the next school year occurring after the vote.".

SEC. 5105. DORMITORY CRITERIA.

Section 1122 of the Education Amendments of 1978 (25 U.S.C. 2002) is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d)(1) The criteria established under this section may be waived in the same manner as the standards provided under section 1121(b) may be waived under section 1121(d).

"(2) No school in operation on or before January 1, 1987 (regardless of compliance or noncompliance with the criteria established under this section) may be closed, transferred to another authority, consolidated or have its program substantially curtailed for failure to meet the criteria.

Reports.

"(3) By no later than May 1, 1989, the Secretary shall submit to the Congress a report detailing the costs associated with, and the actions necessary for, complete compliance with the criteria established under this section.".

SEC. 5106. REGULATIONS.

Section 1123 of the Education Amendments of 1978 (25 U.S.C. 2003) is amended to read as follows:

"REGULATIONS

"SEC. 1123. (a) The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are hereby incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Accordingly, such provisions may be altered only by means of an amendment to this subsection that is contained in an Act or joint resolution which is enacted into law. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(b) The provisions of parts 31, 33, 36, 39, 42, and 43 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, shall be applied by the Federal Government and shall not, before July 1, 1989, be amended, revoked, or altered in any manner. No officer or employee of the Executive Branch shall have the authority to issue any other regulations, prior to July 1, 1989, that supersede, supplement, or otherwise affect the provisions of such parts. To the extent that the provisions of such parts do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(c) After June 30, 1989, no regulation prescribed for the application of any program provided under this title shall become effective unless— 102 STAT. 368

"(1) the regulation has been published as a proposed regulation in the Federal Register, Federal Register, publication.

"(2) an opportunity of no less than 90 days has been afforded the public to comment on the published proposed regulation, and

"(3) the regulation has, after such period for public comment, been published in the Federal Register as a final regulation. Federal Register, publication.

"(d) For purposes of this section, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the Executive Branch.".

SEC. 5107. FORMULA MODIFICATIONS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 1128(c) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(1)) is amended to read as follows:

"(1) For fiscal year 1990, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to—

"(A) use a weighted unit of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school;

"(B) consider a school with an average daily attendance of less than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools; and

"(C) take into account the provision of residential services on a less than 9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis will be implemented for the school year involved.".

(2) Subsection (c) of section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008(c)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A) The Secretary shall adjust the formula established under subsection (a) to use a weighted unit of 2.0 for each eligible Indian student that—

"(i) is gifted and talented (as determined pursuant to section 5324 of the Indian Education Amendments of 1988), and

"(ii) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school.

"(B) The adjustment required under subparagraph (A) shall be used for the later of the following fiscal years and for each fiscal year succeeding such later fiscal year:

"(i) the second fiscal year succeeding the fiscal year in which the Secretary of Education makes the report required under section 5324(c)(6)(B) of the Indian Education Act of 1988, or 102 STAT. 369

"(ii) the first fiscal year for which an increase in the amount of funds appropriated for allotment under this section is designated by the law that appropriates such funds as the amount necessary to implement such adjustment without reducing allotments made under this section to any school.

"(5) For each of the fiscal years 1989 and 1990, the Secretary shall adjust the formula established under subsection (a) to provide funding to schools operated by Indian tribes that are treated under State law as political subdivisions of the State in

an amount sufficient to enable the schools to meet standards imposed by the State.".

20 USC 1411 note.

(b) STUDY.—

(1) The Comptroller General of the United States (hereafter in this subsection referred to as the "Comptroller General") shall conduct a study to determine—

(A) the number of children who—

(i) are 3 or 4 years of age,

(ii) are eligible for services provided by the Bureau of Indian Affairs of the Department of the Interior, and

(iii) are handicapped children (within the meaning of section 602(1) of the Education of the Handicapped Act (20 U.S.C. 401(1))),

(B) the geographic disbursement of such children,

(C) the number of such children who the Comptroller General estimates will receive services under the pre-school set-aside program under Public Law 99-457,

(D) the sufficiency of the pre-school services described in subparagraph (C),

(E) the unmet needs of such children,

(F) the number of such children who the Comptroller General estimates will attend education programs (schools or residential programs) funded by the Bureau, and

(G) the information described in subparagraphs (B), (C), (D), and (E) with respect to the children described in subparagraph (F).

Reports.

(2) By no later than the date that is 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the study conducted under paragraph (1).

SEC. 5108. ADMINISTRATIVE COST.

(a) IN GENERAL.—The Education Amendments of 1978 (25 U.S.C. 2008) is amended by inserting after section 1128 (25 U.S.C. 2008) the following new section:

"ADMINISTRATIVE COST GRANTS

25 USC 2008a.

"SEC. 1128A. (a)(1) The Secretary shall, subject to the availability of appropriated funds, provide grants to each tribe or tribal organization operating a contract school in the amount determined under this section with respect to the tribe or tribal organization for the purpose of paying the administrative and indirect costs incurred in operating contract schools in order to—

"(A) enable tribes and tribal organizations operating such schools, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead services and operations necessary to meet the requirements of law and prudent management practice, and

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"(B) carry out other necessary support functions which would otherwise be provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

"(2) Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract schools.

"(b)(1) The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate of the tribe or tribal organization to each of the direct cost education programs operated by the tribe or tribal organization for which funds are received from or through the Bureau.

"(2) The Secretary shall—

"(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by an Indian tribe or tribal

organization under any Federal education program included in the direct cost base of the tribe or tribal organization, and

"(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

"(c) For purposes of this section, the administrative cost percentage rate for a contract school for a fiscal year is equal to the percentage determined by dividing—

"(1) the sum of—

"(A) the amount equal to—

"(i) the direct cost base of the tribe or tribal organization for the fiscal year, multiplied by

"(ii) the minimum base rate, plus

"(B) the amount equal to—

"(i) the standard direct cost base, multiplied by

"(ii) the maximum base rate, by

"(2) the sum of—

"(A) the direct cost base of the tribe or tribal organization for the fiscal year, plus

"(B) the standard direct cost base.

The administrative cost percentage rate shall be determined to the one hundredth of a decimal point.

"(d)(1)(A) Funds received by a contract school as grants under this section for tribal elementary or secondary educational programs may be combined by the contract school into a single administrative cost account without the necessity of maintaining separate funding source accounting.

"(B) Indirect cost funds for programs at the school which share common administrative services with tribal elementary or secondary educational programs may be included in the administrative cost account described in subparagraph (A).

"(2) Funds received as grants under this section with respect to tribal elementary or secondary education programs shall remain 102 STAT. 371
available to the contract school without fiscal year limitation and without diminishing the amount of any grants otherwise payable to the school under this section for any fiscal year beginning after the fiscal year for which the grant is provided.

"(3) Funds received as grants under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or agreement shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

"(e) For purposes of this section—

"(1)(A) The term 'administrative cost' means the costs of necessary administrative functions which—

"(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program,

"(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds, and

"(iii) are either—

"(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds, or

"(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

"(B) The term 'administrative cost' may include, but is not necessarily limited to—

"(i) contract (or other agreement) administration;

"(ii) executive, policy, and corporate leadership and decisionmaking;

"(iii) program planning, development, and management;

"(iv) fiscal, personnel, property, and procurement management;

"(v) related office services and record keeping; and

"(vi) costs of necessary insurance, auditing, legal, safety and security services.

"(2) The term 'Bureau elementary and secondary functions' means—

"(A) all functions funded at Bureau schools by the Office of Indian Education Programs of the Bureau;

"(B) all programs—

"(i) funds for which are appropriated to other agencies of the Federal Government, and

"(ii) which are administered for the benefit of Indians through Bureau schools; and

"(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

"(3) The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract or agreement with the Bureau.

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"(4)(A) Except as otherwise provided in this paragraph, the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

"(i) the second fiscal year preceding such fiscal year, or

"(ii) if such programs have not been operated by the tribe or tribal organization during the 2 preceding fiscal years, the first fiscal year preceding such fiscal year.

"(B) In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

"(5) The term 'maximum base rate' means 50 percent.

"(6) The term 'minimum base rate' means 11 percent.

"(7) The term 'standard direct cost base' means $600,000.

"(f)(1) Upon the enactment of the Indian Education Amendments of 1988, the Secretary shall—

"(A) conduct such studies as may be needed to establish an empirical basis for determining relevant factors substantially affecting the required administrative costs of tribal elementary and secondary educational programs, using the formula set forth in subsection (c), and

"(B) a study to determine—

"(i) a maximum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the smallest tribal elementary or secondary educational programs,

"(ii) a minimum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the largest tribal elementary or secondary educational programs, and

"(iii) a standard direct cost base which is the aggregate direct cost funding level for which the percentage determined under subsection (c) will—

"(I) be equal to the median between the maximum base rate and the minimum base rate, and

"(II) ensure that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of tribal elementary or secondary educational programs closest to the size of the program.

"(2) The studies required under paragraph (1) shall—

"(A) be conducted in full consultation (in accordance with section 1130) with—

"(i) the tribes and tribal organizations that are affected by the application of the formula set forth in subsection (c), and

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"(ii) all national and regional Indian organizations of which such tribes and tribal organizations are typically members;

"(B) be conducted on-site at a representative statistical sample of the tribal elementary or secondary educational programs under a contract entered into with a nationally reputable public accounting and business consulting firm;

"(C) take into account the availability of skilled labor, commodities, business and automatic data processing services, related Indian preference and Indian control of education requirements, and any other market factors found substantially to affect the administrative costs and efficiency of each such tribal elementary or secondary educational program studied in order to assure that all required administrative activities can reasonably be delivered in a cost effective manner for each such program, given an administrative cost allowance generated by the values, percentages, or other factors found in the studies to be relevant in such formula;

"(D) identify, and quantify in terms of percentages of direct program costs, any general factors arising from geographic isolation, or numbers of programs administered, independent of program size factors used to compute a base administrative cost percentage in such formula; and

"(E) identify any other incremental cost factors substantially affecting the costs of required administrative cost functions at any of the tribal elementary or secondary educational programs studied and determine whether the factors are of general applicability to other such programs, and (if so) how they may effectively be incorporated into such formula.

"(3) Determinations described in paragraph (2)(C) shall be based on what is pragmatically possible to do at each location studied, given prudent management practice, irrespective of whether required administrative services were actually or fully delivered at these sites, or other services were delivered instead, during the period of the study.

"(4) Upon completion of the studies conducted under paragraph (1), but in no case later than October 1, 1989, the Secretary shall submit to the Congress a report on the findings of the studies, together with determinations based upon such findings that would affect the definitions of terms used in the formula that is set forth in subsection (c). Reports.

"(5) The Secretary shall include in the Bureau's justification for each appropriations request for each fiscal year beginning after fiscal year 1989, a projection of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary educational programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

"(6) For purposes of this subsection, the size of tribal elementary or secondary educational programs is determined by the aggregate

direct cost program funding level for all Bureau funded programs which share common administrative cost functions.

Appropriation authorization.

"(g)(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

"(2) If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under subsection (b) for a fiscal year exceeds the amount of funds appropriated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under subsection (b) for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grant determined under subsection (b) bears to the total of all grants determined under subsection (b) for all tribes and tribal organizations for such fiscal year.

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"(h)(1) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1989 shall—

"(A) in lieu of being determined under subsection (b), be determined for each tribal elementary or secondary educational program on the same basis that indirect costs were determined for such programs for fiscal year 1988, and

"(B) be subject to the provisions of subsection (d).

"(2) Notwithstanding any other provision of this section, the amount of the grant provided under this section for fiscal year 1990 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1990 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1988 (or fiscal year 1989 if such program was not operated by the tribe or tribal organization during fiscal year 1988), the sum of—

"(i) such amount received, plus

"(ii) one-third of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to one-third of the excess of—

"(I) such amount received, over

"(II) such amount determined under subsection (b).

"(3) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1991 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1991 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1990, the sum of—

"(i) such amount received, plus

"(ii) one-half of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to one-half of the excess of—

"(I) such amount received over,

"(II) such amount determined under subsection (b).".

(b) SCHOOL BOARD TRAINING.—Paragraph (3) of section 1128(c) of the Education Amendments of 1978 (20 U.S.C. 2008(c)(3)) is amended to read as follows: 102 STAT. 375 25 USC 2008.

"(3)(A) The Secretary shall reserve for national school board training 0.133 percent of the funds appropriated for each fiscal year for distribution under this section. Such training shall be conducted through the same organizations through which, and in the same manner in which, the training was conducted in fiscal year 1986. If the contract for such training is not awarded before May 1 of each fiscal year, the contract under which such training was provided for the fiscal year preceding such fiscal year shall be renewed by the Secretary for such fiscal year. The agenda for the training sessions shall be established by the school boards through their regional or national organizations. Contracts.

"(B) For each year in which the Secretary uses a weighted unit formula established under subsection (a) to fund Bureau schools, a Bureau school which generates less than 168 weighted units shall receive an additional 2 weighted units to defray school board activities.

"(C) From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

"(i) $4,000, or

"(ii) 2 percent of such allotted funds,

for school board activities for such school, including but not limited to, and notwithstanding any other provision of law, meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.".

(c) PERCENTAGE OF FUNDS NOT SUBJECT TO FISCAL YEAR LIMITATION.—Section 1128 of the Education Amendments of 1978 (20 U.S.C. 2008) is amended by adding at the end thereof the following new subsection: 25 USC 2008.

"(h) At the election of the local school board made at any time during the fiscal year, a portion equal to no more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation.".

SEC. 5109. LOCAL PROCUREMENT.

Paragraph (4) of section 1129(a) of the Education Amendments of 1978 (25 U.S.C. 2009) is amended to read as follows:

"(4) Notwithstanding any law or regulation, the supervisor of a Bureau school may expend an aggregate of no more than $25,000 of the amount allotted the school under section 1128 to acquire supplies and equipment for the school without competitive bidding if—

"(A) the cost for any single item purchased does not exceed $10,000;

"(B) the school board approves the procurement;

"(C) the supervisor certifies that the cost is fair and reasonable;

"(D) the documents relating to the procurement executed by the supervisor or other school staff cite this paragraph as authority for the procurement; and

"(E) the transaction is documented in a journal maintained at the school clearly identifying when the transaction occurred, what was acquired and from whom, the prices paid, the quantities acquired, and any other information the supervisor or school board considers relevant.". 102 STAT. 376

SEC. 5110. COORDINATED PROGRAMS.

Section 1129 of the Education Amendments of 1978 (25 U.S.C. 2009) is amended by adding at the end thereof the following new subsection:

"(f)(1) From funds allotted to a school under section 1128, the Secretary shall, if specifically requested by the tribal governing body (within the meaning of section 1121(j)) whose children are served by Contracts.

a program operated by the Bureau, implement any cooperative agreement entered into between the tribe, the Bureau school board, and the local public school district which meets the requirements of paragraph (2) and involves education programs operated by the Bureau. The tribe, the Bureau school board, and the local public school district shall determine the terms of the agreement. Such agreement may encompass coordination of all or any part of the following:

"(A) Academic program and curriculum, if a facility operated by the Bureau which is currently accredited by a State or regional accrediting entity would continue to be accredited.

"(B) Support services, including procurement and facilities maintenance.

"(C) Transportation.

"(2) Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed, though this requirement shall not be construed so as to require equal expenditures or an exchange of similar services.".

SEC. 5111. CONSULTATION.

Section 1130 of the Education Amendments of 1978 (25 U.S.C. 2010) is amended—

(1) by striking out "Bureau" the first time it appears and inserting in lieu thereof "the Secretary and the Bureau",

(2) by striking out "It shall" and inserting in lieu thereof "(a) It shall", and

(3) by adding at the end thereof the following new subsection:

"(b)(1) All actions under this Act shall be done with active consultation with tribes.

"(2) The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including, but not limited to, tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options presented or to present other alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information educed or presented during the discussions, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.".

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SEC. 5112. INDIAN EMPLOYMENT PREFERENCE.

(a) APPLICANTS.—Subsection (f)(1) of section 1131 of the Education Amendments of 1978 (25 U.S.C. 2011) is amended by striking out "an employee" and inserting in lieu thereof "an applicant or employee".

(b) PROVIDERS OF SUPPORT SERVICES.—

(1) Subparagraph (A) of section 1131(n)(1) of the Education Amendments of 1978 (25 U.S.C. 2011(n)(1)(A)) is amended—

(A) by striking out "or" at the end of clause (ii), and

(B) by adding at the end thereof the following new clause:

"(iv) support services at, or associated with, the site of the school; or".

25 USC 2011 note.

(2) The amendments made by paragraph (1) shall apply with respect to an individual who is employed by the Bureau of Indian Affairs of the Department of the Interior on the date of enactment of this Act only if such individual elects, in such form and at such time as the Secretary of the Interior may prescribe, the application of such amendments with respect to such individual.

SEC. 5113. PERSONNEL COMPENSATION, RECRUITMENT, AND RETENTION STUDIES.

25 USC 2011 note.

(a) IN GENERAL.—The Secretary shall conduct such studies and gather such information as may be necessary to prepare a report that the Secretary shall submit to the Congress by no later than the date that is 6 months after the date of enactment of this Act. The report shall compare personnel compensation in Bureau funded schools with—

Reports.

(1) nearest public schools that—

(A) have successful educational programs, and

(B) are comparable in size, geographic location, grade levels, and student population characteristics to Bureau funded schools, and

(2) schools operated within the United States by the Department of Defense.

(b) INCLUSIONS.—The report required under subsection (a) shall include—

(1) detailed information on the current salaries and personnel benefits for comparable positions in the Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a),

(2) a comparison of starting salaries, tenure, length of service, educational and certification requirements, length of work year and work day, and fringe benefits between Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a),

(3) a projection of the compensation factors described in paragraphs (1) and (2) for Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a) over the next five years, and

(4) such additional information and analysis as the Secretary deems appropriate.

(c) FUNDING AND STAFF.—

(1) The cost of the studies and the report required under subsection (a) (including, but not limited to, costs for all contracts, travel, and staff assigned to the study) shall be paid from amounts appropriated to the Bureau's Management and Administration subactivity of the General Administration activity, except that the salaries and personnel benefits of employees detailed to the study from the Office of Indian Education of the Bureau may continue to be charged to the amounts appropriated to the Bureau's Education account.

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(2) If the Secretary does not conduct the studies required under subsection (a) by contract, the staff detailed to work on the studies and report required under subsection (a) shall include not less than two career employees from the Office of Indian Education of the Bureau who have substantial experience in the administration (at the level of an agency office) of school operations and in the drafting of personnel regulations, including but not limited to those under this Act.

(d) CONTRACTS.—The Secretary may conduct part or all of the studies required under subsection (a) through contracts entered into with one or more Indian education organizations.

(e) ADDITIONAL STUDIES.—The Secretary shall conduct such other studies of personnel compensation and recruitment in Bureau funded and public schools as are desirable in carrying out the purposes of title 11 of the Education Amendments of 1978.

(f) DEFINITIONS.—For purposes of this section—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

SEC. 5114. REGULAR COMPENSATION OF BUREAU EDUCATORS; NONVOLUNTARY FURLOUGHS.

(a) COMPENSATION.—Paragraph (1) of section 1131(h) of the Education Amendments of 1978 (25 U.S.C. 2011(h)(1)) is amended—

(1) by inserting "or on the basis of the Federal Wage System schedule in effect for the locality" after "is applicable",

(2) by striking out "The Secretary shall" and inserting in lieu thereof "(A) Except as otherwise provided in this section, the Secretary shall", and

(3) by adding at the end thereof the following new subparagraphs:

"(B) By no later than the close of the 6-month period beginning on the date of enactment of the Indian Education Amendments of 1988, the Secretary shall establish, for contracts for the 1991–1992 academic year, and thereafter, the rates of basic compensation, or annual salary rates, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rates of basic compensation applicable (on the date of enactment of such Amendments and thereafter) to comparable positions in overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act, unless the Secretary establishes such rates within such 6-month period through collective bargaining with the appropriate union representative of the education employees that is recognized by the Bureau.

"(C) By no later than the close of the 6-month period described in subparagraph (B), the Secretary shall establish the rates of basic compensation or annual salary rates for the positions of teachers and counselors (including dormitory and home-living counselors)—

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"(i) for contracts for the 1989–1990 academic year, at rates which reflect one-third of the changes in the rates applicable to such positions on the date of enactment of the Indian Education Amendments of 1988 that must be made to conform the rates to the rates established under subparagraph (B) for such positions for contracts for the 1991–1992 academic year, and

"(ii) for contracts for the 1990–1991 academic year, at rates which reflect two-thirds of such changes.

"(D) The establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau before the enactment of the Indian Education Amendments of 1988 in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of the educator.

"(E)(i) Except as provided in clause (ii), the establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not affect the continued employment or compensation of any individual employed in an education position on the day before the date of enactment of the Indian Education Amendments of 1988 if this paragraph did not apply to such individual on such day.

"(ii) Any individual described in clause (i) may, during the 5-year period beginning on the date on which the Secretary establishes rates of basic compensation and annual salary rates under subparagraph (B), make an irrevocable election to have the basic compensation rate or annual salary rate of such individual determined in accordance with this paragraph.

"(iii) If an individual makes the election described in clause (ii), such election shall not affect the application to the individual of the same retirement system and leave system that applies to the individual during the fiscal year preceding the fiscal year in which such election is made.

President of U.S.

"(F) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1990, 1991, and 1992 a written statement by the Secretary which specifies—

"(i) the amount of funds the Secretary needs to pay basic compensation and the annual salaries of educators for such fiscal year, and

"(ii) the amount of funds the Secretary estimates would be needed to pay basic compensation and the annual salaries of educators for such fiscal year if the amendments made to this paragraph by the Indian Education Amendments of 1988 had not been enacted.".

(b) FURLOUGHS.—Section 1131 of the Education Amendments of 1978 (20 U.S.C. 2011) is amended by adding at the end thereof the following new subsection:

"(p)(1) No educator whose basic compensation is paid from funds allocated under section 1128 may be placed on furlough (within the meaning of section 7511(a)(5) of title 5, United States Code) without the consent of such educator for an aggregate of more than 4 weeks within the same calendar year, unless—

"(A) the supervisor, with the approval of the local school board (or of the agency superintendent for education upon appeal under paragraph (2)), of the Bureau school at which such educator provides services determines that a longer period of furlough is necessary due to a shortage of funds, and

"(B) all educators (other than principals and clerical employees) providing services at such Bureau school are placed on furloughs of equal length.

"(2) The supervisor of a Bureau school may appeal to the appropriate agency superintendent for education any refusal by the local school board to approve any determination of the supervisor that is described in paragraph (1)(A) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be approved. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the superintendent may, for good cause, approve the determination of the supervisor. The superintendent shall transmit the determination of such appeal in the form of a written opinion to such local school board and to the supervisor identifying the reasons for approving such determination.".

102 STAT. 380

SEC. 5115. POST DIFFERENTIALS.

Paragraph (3) of section 1131(h) of the Education Amendments of 1978 (25 U.S.C. 2011(h)(3)) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(A) The Secretary", and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) Upon the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide one or more post differentials under subparagraph (A) unless the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that certain of the requested post differentials should be disapproved or decreased because there is no disparity of compensation for the involved employees or positions in the Bureau school, as compared with the nearest public school, that is either—

"(I) at least 5 percent, or

"(II) less than 5 percent and affects the recruitment or retention of employees at the school.

The request under this subparagraph shall be deemed granted as requested at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time it is approved, approved with modification, or disapproved by the Secretary.

"(ii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential authorized by reason of this subparagraph at the beginning of a school year after either—

"(I) the local school board requests that it be discontinued or decreased, or

"(II) the Secretary or the supervisor determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

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"(iii) On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and grants of authority under this subparagraph during the previous fiscal year and listing the positions contracted under those grants of authority.".

SEC. 5116. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

20 USC 241aa note, 241bb-1.

Title XI of the Education Amendments of 1978 is amended—

(1) by striking out part C, and

(2) by adding at the end of part B the following new section:

"EARLY CHILDHOOD DEVELOPMENT PROGRAM

Grants.
25 USC 2022a.

"SEC. 1141. (a) The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

"(b)(1) The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the total amount appropriated under the authority of subsection (f) for such fiscal year (less amounts provided under subsection (e)) as—

"(A) the total number of children under 6 years of age who are members of—

"(i) such tribe,

"(ii) the tribe that authorized such tribal organization, or

"(iii) any tribe that—

"(I) is a member of such consortium, or

"(II) authorizes any tribal organization that is a member of such consortium, bears to

"(B) the total number of all children under 6 years of age who are members of any tribe that—

"(i) is eligible to receive funds under subsection (a),

"(ii) is a member of a consortium that is eligible to receive such funds, or

"(iii) authorizes a tribal organization that is eligible to receive such funds.

"(2) No grant may be provided under subsection (a)—

"(A) to any tribe that has less than 500 members,

"(B) to any tribal organization which is authorized—

"(i) by only one tribe that has less than 500 members, or

"(ii) by one or more tribes that have a combined total membership of less than 500 members, or

"(C) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

"(c)(1) A grant may be provided under subsection (a) to a tribe, tribal organization, or consortia of tribes and tribal organizations only if the tribe, organization or consortia submits to the Secretary an application for the grant at such time and in such form as the Secretary shall prescribe.

"(2) Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

"(d) The early childhood development programs that are funded by grants provided under subsection (a)—

"(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6

years of age which are not being met by existing programs, including— 102 STAT. 382

"(A) prenatal care,

"(B) nutrition education,

"(C) health education and screening,

"(D) educational testing, and

"(E) other educational services,

"(2) may include instruction in the language, art, and culture of the tribe, and

"(3) shall provide for periodic assessment of the program.

"(e) The Secretary shall, out of funds appropriated under the authority of subsection (f), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe or tribal organization in establishing and maintaining the early childhood development program.

"(f) There are authorized to be appropriated for fiscal year 1989, and for each succeeding fiscal year, $15,000,000 for the purpose of carrying out the provisions of this section.". Appropriation authorization.

SEC. 5117. DEFINITIONS.

Section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019) is amended—

(1) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) the term 'Bureau funded school' means—

"(A) a Bureau school;

"(B) a contract school; or

"(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988;",

(2) by redesignating paragraphs (4) through (10) as paragraphs (6) through (12), respectively, and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) the term 'Bureau school' means a Bureau operated elementary or secondary day or boarding school or a Bureau operated dormitory for students attending a school other than a Bureau school;

"(5) the term 'contract school' means an elementary or secondary school or a dormitory which receives financial assistance for its operation under a contract or agreement with the Bureau under section 102, 104(1), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(1), and 458d);".

SEC. 5118. SEQUESTRATION ORDERS.

Subsection (a) of section 1129 of the Education Amendments of 1978 (25 U.S.C. 2009(a)) is amended by adding at the end thereof the following new paragraph:

"(5) If a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 reduces the amount of funds available for allotment under section 1128 for any fiscal year by more than 7 percent of the amount of funds available for allotment under section 1128 during the preceding fiscal year—

"(A) the Secretary may, notwithstanding any other provision of law, use—

"(i) funds appropriated for the operation of any Bureau school that is closed or consolidated, and 102 STAT. 383

"(ii) funds appropriated for any program that has been curtailed at any Bureau school,

to fund allotments made under section 1128, and

"(B) the Secretary may waive the application of the provisions of section 1121(g) with respect to the closure or consolidation of a school, or the curtailment of a program at a school, during such fiscal year if the funds described in clauses (i) and (ii) of subparagraph (A) with respect to such school are used to fund allotments made under section 1128 for such fiscal year.".

Grants.

SEC. 5119. TRIBAL DEPARTMENTS OF EDUCATION.

Part B of title XI of the Education Amendments of 1978 is amended by adding at the end thereof the following new section:

"TRIBAL DEPARTMENTS OF EDUCATION

25 USC 2022b.

"SEC. 1142. (a) Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments of education for the purpose of planning and coordinating all educational programs of the tribe.

"(b) Grants provided under this section shall—

"(1) be based on applications from the governing body of the tribe,

"(2) reflect factors such as geographic and population diversity,

"(3) facilitate tribal control in all matters relating to the education of Indian children on Indian reservations and on former Indian reservations in Oklahoma,

"(4) provide for the development of coordinated educational programs on Indian reservations (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities,

"(5) provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs, and

"(6) otherwise comply with regulations for grants under section 104(a) of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450h) that are in effect on the date application for such grants are made.

"(c)(1) In approving and funding applications for grants under this section, the Secretary shall give priority to any application that—

"(A) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools, including (but not limited to) the submission to each applicable agency of a unified application for funding for all of such schools which provides that—

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"(i) no administrative costs other than those attributable to the individual programs of such schools will be associated with the unified application, and

"(ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such schools is entitled under law,

"(B) includes assurances from the tribal governing body that the tribal department of education funded under this section will administer all contracts or grants (except those covered by the other provisions of this title and the Tribally Controlled Community College Assistance Act of 1978) for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible,

"(C) includes assurances for the monitoring and auditing by or through the tribal department of education of all education programs for which funds are provided by contract or grant to ensure that the programs meet the requirements of law, and

"(D) provides a plan and schedule for—

"(i) the assumption over the term of the grant by the tribal department of education of all assets and functions of the Bureau agency office associated with the tribe, insofar as those responsibilities relate to education, and

"(ii) the termination by the Bureau of such operations and office at the time of such assumption,

but when mutually agreeable between the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

"(2) Subject to the availability of appropriated funds, grants provided under this section shall be provided for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

"(d) The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

"(e) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.". Appropriation authorization.

SEC. 5120. SCHOOL BOUNDARIES.

Subsection (b) of section 1124 of the Education Amendments of 1978 (25 U.S.C. 2004(b)) is amended—

(1) by striking out "On or after" and inserting in lieu thereof "(1) Except as provided in paragraph (2), on or after", and

(2) by adding at the end thereof the following new paragraph:

"(2) In any case where there is more than one Bureau funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.". 102 STAT. 385

PART B—TRIBALLY CONTROLLED SCHOOL GRANTS

Tribally Controlled Schools Act of 1988. 25 USC 2501 note.

SEC. 5201. SHORT TITLE.

This part may be cited as the "Tribally Controlled Schools Act of 1988".

SEC. 5202. FINDINGS. 25 USC 2501.

The Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, Indians, finds that—

(1) the Indian Self-Determination and Education Assistance Act, which was a product of the legitimate aspirations and a recognition of the inherent authority of Indian nations, was and is a crucial positive step towards tribal and community control;

(2) the Bureau of Indian Affairs' administration and domination of the contracting process under such Act has not provided the full opportunity to develop leadership skills crucial to the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities;

(3) Indians will never surrender their desire to control their relationships both among themselves and with the non-Indian governments, organizations, and persons;

(4) true self-determination in any society of people is dependent upon an educational process which will ensure the development of qualified people to fulfill meaningful leadership roles;

(5) the Federal administration of education for Indian children has not effected the desired level of educational achieve-

ment nor created the diverse opportunities and personal satisfaction which education can and should provide;

(6) true local control requires the least possible Federal interference; and

(7) the time has come to enhance the concepts made manifest in the Indian Self-Determination and Education Assistance Act.

25 USC 2502.

SEC. 5203. DECLARATION OF POLICY.

(a) RECOGNITION.—The Congress recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational services so as to render such services more responsive to the needs and desires of those communities.

(b) COMMITMENT.—The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy for education which will deter further perpetuation of Federal bureaucratic domination of programs.

(c) NATIONAL GOAL.—The Congress declares that a major national goal of the United States is to provide the resources, processes, and structures which will enable tribes and local communities to effect the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being.

102 STAT. 386

(d) EDUCATIONAL NEEDS.—The Congress affirms the reality of the special and unique educational needs of Indian peoples, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities. These may best be met through a grant process.

(e) FEDERAL RELATIONS.—The Congress declares its commitment to these policies and its support, to the full extent of its responsibility, for Federal relations with the Indian Nations.

(f) TERMINATION.—The Congress hereby repudiates and rejects House Concurrent Resolution 108 of the 83rd Congress and any policy of unilateral termination of Federal relations with any Indian Nation.

25 USC 2503.

SEC. 5204. GRANTS AUTHORIZED.

(a) IN GENERAL.—

(1) The Secretary shall provide grants to Indian tribes, and tribal organizations, that—

(A) operate tribally controlled schools which are eligible for assistance under this part, and

(B) submit to the Secretary applications for such grants.

(2) Grants provided under this part shall be deposited into the general operating fund of the tribally controlled school with respect to which the grant is provided.

(3)(A) Except as otherwise provided in this paragraph, grants provided under this part shall be used to defray, at the discretion of the school board of the tribally controlled school with respect to which the grant is provided, any expenditures for education-related activities for which any funds that compose the grant may be used under the laws described in section 5205(a), including but not limited to, expenditures for—

(i) school operations, academic, educational, residential, guidance and counseling, and administrative purposes, and

(ii) support services for the school, including transportation.

(B) Grants provided under this part may, at the discretion of the school board of the tribally controlled school with respect to which such grant is provided, be used to defray operation and maintenance expenditures for the school if any funds for the operation and maintenance of the school are allocated to the

school under the provisions of any of the laws described in section 5205(a).

(C) If funds allocated to a tribally controlled school under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Education of the Handicapped Act, or any Federal education law other than title XI of the Education Amendments of 1978 are included in a grant provided under this part, a portion of the grant equal to the amount of the funds allocated under such law shall be expended only for those activities for which funds provided under such law may be expended under the terms of such law.

(b) LIMITATIONS.—

(1) No more than one grant may be provided under this part with respect to any Indian tribe or tribal organization for any fiscal year.

(2) Funds provided under any grant made under this part may not be used in connection with religious worship or sectarian instruction.

102 STAT. 587

(3) Funds provided under any grant made under this part may not be expended for administrative costs (as defined under section 1128A(e)(1) of the Education Amendments of 1978) in excess of the amount generated for such costs under section 1128A of such Act.

(c) LIMITATION ON TRANSFER OF FUNDS AMONG SCHOOLSITES.—

(1) In the case of a grantee which operates schools at more than one schoolsite, the grantee may expend no more than the lesser of—

(A) 10 percent of the funds allocated for a schoolsite under section 1128 of the Education Amendments of 1978, or

(B) $400,000 of such funds,

at any other schoolsite.

(2) For purposes of this subsection, the term "schoolsite" means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract with, the Bureau for which a discreet student count is identified under the funding formula established under section 1128 of the Education Amendments of 1978.

(d) NO REQUIREMENT TO ACCEPT GRANTS.—Nothing in this part may be construed—

(1) to require a tribe or tribal organization to apply for or accept, or

(2) to allow any person to coerce any tribe or tribal organization into applying for, or accepting,

a grant under this part to plan, conduct, and administer all of, or any portion of, any Bureau program. Such applications, and the timing of such applications, shall be strictly voluntary. Nothing in this part may be construed as allowing or requiring any grant with any entity other than the entity to which the grant is provided.

Voluntarism.

(e) NO EFFECT ON FEDERAL RESPONSIBILITY.—Grants provided under this part shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide a program.

(f) RETROCESSION.—Whenever an Indian tribe requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective upon a date specified by the Secretary not more than 120 days after the date on which the tribe requests the retrocession, or such later date as may be mutually agreed upon by the Secretary and the tribe. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession.

(g) NO TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this Act may not be terminated, modified, suspended, or reduced only for the convenience of the administering agency.

25 USC 2504.

SEC. 5205. COMPOSITION OF GRANTS.

(a) IN GENERAL.—The grant provided under this part to an Indian tribe or tribal organization for any fiscal year shall consist of—

(1) the total amount of funds allocated for such fiscal year under sections 1128 and 1128A of the Education Amendments of 1978 with respect to the tribally controlled schools eligible for assistance under this part that are operated by such Indian tribe or tribal organization, including, but not limited to, funds provided under such sections, or under any other provision of law, for transportation costs,

102 STAT. 388

(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and other facilities accounts for such schools for such fiscal year under section 1126(d) of the Education Amendments of 1978 or under any other law, and

(3) the total amount of funds provided under—

(A) chapter 1 of title I of the Elementary and Secondary Education Act of 1965,

(B) the Education of the Handicapped Act, and

(C) any other Federal education law,

that are allocated to such schools for such fiscal year.

(b) SPECIAL RULES.—

(1) In the allocation of funds under sections 1128, 1128A, and 1126(d) of the Education Amendments of 1978, tribally controlled schools for which grants are provided under this part shall be treated as contract schools.

(2) In the allocation of funds provided under—

(A) chapter 1 of title I of the Elementary and Secondary Education Act of 1965,

(B) the Education of the Handicapped Act, and

(C) any other Federal education law,

that are distributed through the Bureau, tribally controlled schools for which grants are provided under this part shall be treated as Bureau schools.

(3)(A) Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) shall be subject to the provisions of this part and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

(i) title I of the Elementary and Secondary Education Act of 1965,

(ii) the Education of the Handicapped Act, or

(iii) any Federal education law other than title XI of the Education Amendments of 1978.

(B) Indian tribes and tribal organizations to which grants are provided under this part, and tribally controlled schools for which such grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii), or (iii) of subparagraph (A).

25 USC 2505.

SEC. 5206. ELIGIBILITY FOR GRANTS.

(a) IN GENERAL.—

(1) A tribally controlled school is eligible for assistance under this part if the school—

(A) was, on the date of enactment of this Act, a school which received funds under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.),

(B) was a school operated (as either an elementary or secondary school or a combined program) by the Bureau and has met the requirements of subsection (b),

(C) is a school for which the Bureau has not provided funds, but which has met the requirements of subsection (c), or 102 STAT. 389

(D) is a school with respect to which an election has been made under paragraph (2) and which has met the requirements of subsection (b).

(2) Any application which has been submitted under the Indian Self-Determination and Education Assistance Act by an Indian tribe for a school which is not in operation on the date of enactment of this Act shall be reviewed under the guidelines and regulations for applications submitted under the Indian Self-Determination and Education Assistance Act that were in effect at the time the application was submitted, unless the Indian tribe or tribal organization elects to have the application reviewed under the provisions of subsection (b).

(b) ADDITIONAL REQUIREMENTS FOR BUREAU SCHOOLS AND CERTAIN ELECTING SCHOOLS.—

(1) Any school that was operated as a Bureau school on the date of enactment of this Act, and any school with respect to which an election is made under subsection (a)(2), meets the requirements of this subsection if—

(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting that the Secretary—

(i) transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school, and

(ii) make a determination of whether the school is eligible for assistance under this part, and

(B) the Secretary makes a determination that the school is eligible for assistance under this part.

(2)(A) By no later than the date that is 120 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine—

(i) if the school is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization, and

(ii) whether the school is eligible for assistance under this part.

(B) In considering applications submitted under paragraph (1)(A), the Secretary—

(i) shall transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school, and

(ii) shall determine that the school is eligible for assistance under this part,

unless the Secretary finds by clear and convincing evidence that the services to be provided by the Indian tribe or tribal organization will be deleterious to the welfare of the Indians served by the school.

(C) In considering applications submitted under paragraph (1)(A), the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in operating the school with respect to—

(i) equipment,

(ii) bookkeeping and accounting procedures,

(iii) substantive knowledge of operating the school, 102 STAT. 390

(iv) adequately trained personnel, or

(v) any other necessary components in the operation of the school.

(c) ADDITIONAL REQUIREMENTS FOR SCHOOLS THAT HAVE NOT RECEIVED BUREAU FUNDS.—

(1) A school for which the Bureau has not provided funds meets the requirements of this subsection if—

(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an

application requesting a determination by the Secretary of whether the school is eligible for assistance under this part, and

(B) the Secretary makes a determination that the school is eligible for assistance under this part.

(2)(A) By no later than the date that is 180 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine whether the school is eligible for assistance under this part.

(B) In making the determination under subparagraph (A), the Secretary shall give equal consideration to each of the following factors:

(i) with respect to the applicant's proposal—

(I) the adequacy of facilities or the potential to obtain or provide adequate facilities;

(II) geographic and demographic factors in the affected areas;

(III) adequacy of applicant's program plans;

(IV) geographic proximity of comparable public education; and

(V) the needs as expressed by all affected parties, including but not limited to students, families, tribal governments at both the central and local levels, and school organizations; and

(ii) with respect to all education services already available—

(I) geographic and demographic factors in the affected areas;

(II) adequacy and comparability of programs already available;

(III) consistency of available programs with tribal education codes or tribal legislation to education; and

(IV) the history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

(C) The Secretary may not make a determination under this paragraph that is primarily based upon the geographic proximity of comparable public education.

(D) Applications submitted under paragraph (1)(A) shall include information on the factors described in subparagraph (B)(i), but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers appropriate.

(E) If the Secretary fails to make a determination under subparagraph (A) with respect to an application within 180 days after the date on which the Secretary received the application, the Secretary shall be treated as having made a determination that the tribally controlled school is eligible for assistance under the title and the grant shall become effective 18 months after the date on which the Secretary received the application, or an earlier date, at the Secretary's discretion.

102 STAT. 391

(d) APPLICATIONS AND REPORTS.—

(1) All applications and reports submitted to the Secretary under this part, and any amendments to such applications or reports, shall be filed with the agency or area education officer designated by the Director of the Office of Indian Education of the Department of Education. The date on which such filing occurs shall, for purposes of this part, be treated as the date on which the application or amendment is submitted to the Secretary.

(2) Any application that is submitted under this part shall be accompanied by a document indicating the action taken by the tribal governing body in authorizing such application.

(e) EFFECTIVE DATE FOR APPROVED APPLICATIONS.—Except as provided in subsection (c)(2)(E), a grant provided under this part, and

any transfer of the operation of a Bureau school made under subsection (b), shall become effective beginning with the academic year succeeding the fiscal year in which the application for the grant or transfer is made, or at an earlier date determined by the Secretary.

(f) DENIAL OF APPLICATIONS.—

(1) Whenever the Secretary declines to provide a grant under this part, to transfer operation of a Bureau school under subsection (b), or determines that a school is not eligible for assistance under this part, the Secretary shall—

(A) state the objections in writing to the tribe or tribal organization within the allotted time,

(B) provide assistance to the tribe or tribal organization to overcome all stated objections,

(C) provide the tribe or tribal organization a hearing, under the same rules and regulations that apply under the Indian Self-Determination and Education Assistance Act, and

(D) provide an opportunity to appeal the objection raised.

(2) The Secretary shall reconsider any amended application submitted under this part within 60 days after the amended application is submitted to the Secretary.

(g) REPORT.—The Bureau shall submit an annual report to the Congress on all applications received, and actions taken (including the costs associated with such actions), under this section at the same time that the President is required to submit to the Congress the budget under section 1105 of title 31, United States Code.

SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION. 25 USC 2506.

(a) IN GENERAL.—If the Secretary determines that a tribally controlled school is eligible for assistance under this part, the eligibility determination shall remain in effect until the determination is revoked by the Secretary, and the requirements of subsection (b) or (c) of section 5206, if applicable, shall be considered to have been met with respect to such school until the eligibility determination is revoked by the Secretary.

(b) ANNUAL REPORTS.—Each recipient of a grant provided under this part shall submit to the Secretary and to the tribal governing body (within the meaning of section 1121(j) of the Education Amendments of 1978) of the tribally controlled school an annual report that shall be limited to— 102 STAT. 392

(1) an annual financial statement reporting revenue and expenditures as defined by the cost accounting established by the grantee;

(2) a biannual financial audit conducted pursuant to the standards of the Single Audit Act of 1984;

(3) an annual submission to the Secretary of the number of students served and a brief description of programs offered under the grant; and

(4) a program evaluation conducted by an impartial entity, to be based on the standards established for purposes of subsection (c)(1)(A)(ii).

(c) REVOCATION OF ELIGIBILITY.—

(1)(A) The Secretary shall not revoke a determination that a school is eligible for assistance under this part if—

(i) the Indian tribe or tribal organization submits the reports required under subsection (b) with respect to the school, and

(ii) at least one of the following subclauses applies with respect to the school:

(I) The school is certified or accredited by a State or regional accrediting association as determined by the Secretary of Education, or is a candidate in good standing for such accreditation under the rules of the State or regional accrediting association, showing that credits achieved by students within the education programs

are, or will be, accepted at grade level by a State certified or regionally accredited institution.

(II) A determination made by the Secretary that there is a reasonable expectation that the accreditation described in subclause (I), or the candidacy in good standing for such accreditation, will be reached by the school within 3 years and that the program offered by the school is beneficial to the Indian students.

(III) The school is accredited by a tribal department of education if such accreditation is accepted by a generally recognized regional or State accreditation agency.

(IV) The school accepts the standards promulgated under section 1121 of the Education Amendments of 1978 and an evaluation of performance is conducted under this section in conformance with the regulations pertaining to Bureau operated schools by an impartial evaluator chosen by the grantee, but no grantee shall be required to comply with these standards to a higher degree than a comparable Bureau operated school.

(V) A positive evaluation of the school is conducted once every 3 years under standards adopted by the contractor under a contract for a school entered into under the Indian Self-Determination and Education Assistance Act prior to the date of enactment of this Act, such evaluation to be conducted by an impartial evaluator agreed to by the Secretary and the grantee. Upon failure to agree on such an evaluator, the governing body of the tribe shall choose the evaluator or perform the evaluation.

102 STAT. 393

(B) The choice of standards employed for purposes of subparagraph (A)(ii) shall be consistent with section 1121(e) of the Education Amendments of 1978.

(2) The Secretary shall not revoke a determination that a school is eligible for assistance under this part, or reassume control of a school that was a Bureau school prior to approval of an application submitted under section 5206(b)(1)(A), until the Secretary—

(A) provides notice to the tribally controlled school and the tribal governing body (within the meaning of section 1121(j) of the Education Amendments of 1978) of the tribally controlled school which states—

(i) the specific deficiencies that led to the revocation or resumption determination, and

(ii) the actions that are needed to remedy such deficiencies, and

(B) affords such authority an opportunity to effect any remedial actions.

The Secretary shall provide such technical assistance as is necessary to effect such remedial actions. Such notice and technical assistance shall be in addition to a hearing and appeal to be conducted pursuant to the regulations described in section 5206(f)(1)(C).

25 USC 2507.

SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS.

(a) PAYMENTS.—

(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments:

(A) one payment to be made no later than October 1 of each fiscal year in an amount equal to one-half the amount paid during the preceding fiscal year to the grantee or a contractor that has elected to have the provisions of this part apply, and

(B) the second payment consisting of the remainder to which the grantee or contractor is entitled for the fiscal

year to be made by no later than January 1 of the fiscal year.

(2) For any school for which no payment was made under this part in the preceding fiscal year, full payment of the amount computed for each fiscal year shall be made by January 1 of the fiscal year.

(b) INVESTMENT OF FUNDS.—

(1) Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this part after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

(2) Funds provided under this part may be—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or 102 STAT. 394

(B) deposited only into accounts that are insured by an agency or instrumentality of the United States.

(c) RECOVERIES.—For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this part shall not be taken into consideration.

SEC. 5209. APPLICATION WITH RESPECT TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT. 25 USC 2508.

(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—All provisions of sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c, et seq.) except those provisions pertaining to indirect costs and length of contract, shall apply to grants provided under this part.

(b) ELECTION FOR GRANT IN LIEU OF CONTRACT.—

(1) Contractors for activities to which this part applies who have entered into a contract under the Indian Self-Determination and Education Assistance Act that is in effect upon the date of enactment of this Act may, by giving notice to the Secretary, elect to have the provisions of this part apply to such activity in lieu of such contract.

(2) Any election made under paragraph (1) shall take effect on the later of—

(A) October 1 of the fiscal year succeeding the fiscal year in which such election is made, or

(B) the date that is 60 days after the date of such election.

(c) NO DUPLICATION.—No funds may be provided under any contract entered into under the Indian Self-Determination and Education Assistance Act to pay any expenses incurred in providing any program or service if a grant has been made under this part to pay such expenses.

SEC. 5210. ROLE OF THE DIRECTOR. 25 USC 2509.

Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

SEC. 5211. REGULATIONS. 25 USC 2510.

The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this

part. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for the purposes of judicial review.

25 USC 2511.

SEC. 5212. DEFINITIONS.

For purposes of this part—

(1) The term "eligible Indian student" has the meaning of such term in section 1128(f) of the Education Amendments of 1978 (25 U.S.C. 2008(f)).

102 STAT. 395

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native Village or regional or village corporation (as defined in or established pursuant to the Alaskan Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3)(A) The term "tribal organization" means—

(i) the recognized governing body of any Indian tribe, or

(ii) any legally established organization of Indians which—

(I) is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of the Indian community to be served by such organization, and

(II) includes the maximum participation of Indians in all phases of its activities.

(B) In any case in which a grant is provided under this part to an organization to perform services benefiting more than one Indian tribe, the approval of the governing bodies of Indian tribes representing 80 percent of those students attending the tribally controlled school shall be considered a sufficient tribal authorization for such grant.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "tribally controlled school" means a school, operated by a tribe or a tribal organization, enrolling students in kindergarten through grade 12, including preschools, which is not a local educational agency and which is not directly administered by the Bureau of Indian Affairs.

(6) The term "a local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(7) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

PART C—DEPARTMENT OF EDUCATION

Indian Education Act of 1988. 25 USC 2601 note.

SEC. 5301. SHORT TITLE.

This part may be cited as the "Indian Education Act of 1988".

Subpart 1—Financial Assistance to Local Educational Agencies for the Education of Indian Children

25 USC 2601.

SEC. 5311. DECLARATION OF POLICY.

In recognition of the special educational and culturally related academic needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and

carry out elementary and secondary school programs specially designed to meet these special educational and culturally related academic needs, or both. 102 STAT. 396

SEC. 5312. GRANTS TO LOCAL EDUCATIONAL AGENCIES. 25 USC 2602.

(a) IN GENERAL.—The Secretary shall, in order to effectuate the policy set forth in section 5311, carry out a program of making grants to local educational agencies which are entitled to payments under this subpart and which have submitted, and have had approved, applications therefor, in accordance with the provisions of this subpart.

(b) AMOUNT OF GRANTS.—

(1)(A) For any fiscal year for which appropriations are authorized under section 5316 of this Act, the Secretary shall determine the number of eligible Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

(B) For purposes of this subpart, the term "eligible Indian children" means Indian children whom the Secretary has determined—

(i) were enrolled in a school of the local educational agency, and

(ii) were provided free public education by the local educational agency.

(2)(A) From the sums appropriated under section 5316(a) for any fiscal year, the Secretary shall allocate to each local educational agency which has an application approved under this subpart an amount which bears the same ratio to such sums as the product of—

(i) the number of eligible Indian children, multiplied by

(ii) the average per pupil expenditure per local educational agency,

bears to the sum of such products for all such local educational agencies.

(B) A local educational agency shall not be entitled to receive a grant under this subpart for any fiscal year unless the number of eligible Indian children, with respect to such agency, is at least 10 or constitutes at least 50 percent of its total enrollment. The requirements of this subparagraph shall not apply to any local educational agencies serving Indian children in Alaska, California, and Oklahoma or located on, or in proximity to, an Indian reservation.

(C) For the purposes of this subsection, the average per pupil expenditure for a local educational agency is equal to the amount determined by dividing—

(i) the sum of—

(I) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all of the local educational agencies in the State in which such agency is located, plus

(II) any direct current expenditures by such State for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), by 102 STAT. 397

(ii) the aggregate number of children who were in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

(3)(A) The first fiscal year for which schools operated by the Bureau of Indian Affairs of the Department of the Interior shall be treated as local educational agencies for the purposes of this subpart (other than sections 5314(b)(2)(B)(ii) and 5315(c)(2)) is the first fiscal year beginning after the date of enactment of this Act for which the amount of funds appropriated for allocation under this subsection equals or exceeds the amount of funds

that, if such schools are not treated as local educational agencies, is necessary to allocate under paragraph (2) (determined without regard to subparagraph (B)) to each local educational agency which has an application approved under this subpart for such fiscal year an amount of funds for each eligible Indian child equal to the sum of—

(i) the average amount of funds per eligible Indian child that was received by such local educational agency for fiscal year 1988 under section 303(a)(2) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241bb(a)(2)), plus

(ii) 2 percent of the amount described in clause (i).

(B)(i) Notwithstanding any other provision of this subpart, for each fiscal year to which this clause applies—

(I) paragraph (2) shall first be applied to allocate the portion of the funds appropriated for such fiscal year for allocation under this subsection that does not exceed the amount determined to be necessary under subparagraph (A) among only those local educational agencies that received funds under section 303(a)(2) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C 241bb(a)(2)) for fiscal year 1988, and

(II) paragraph (2) shall then be applied to allocate the remaining portion (if any) of the funds appropriated for such fiscal year for allocation under this subsection among only those local educational agencies that are schools operated by the Bureau of Indian Affairs.

(ii) Clause (i) applies to the first fiscal year described in subparagraph (A), and each succeeding fiscal year, until the amount of funds appropriated for allocation under this subsection for any fiscal year beginning after the date of enactment of this Act equals or exceeds the amount of funds that, if all schools operated by the Bureau of Indian Affairs are treated as local educational agencies, is necessary to allocate under paragraph (2) (determined without regard to clause (i)) to each local educational agency which has an application approved under this subpart for such fiscal year an amount of funds for each eligible Indian child equal to the sum of—

(I) the average amount of funds per eligible Indian child that was received by such local educational agency for fiscal year 1988 under the Indian Elementary and Secondary School Assistance Act, plus

(II) 2 percent of the amount described in subclause (I).

(c) GRANTS TO SCHOOLS THAT ARE NOT, OR HAVE NOT BEEN, LOCAL EDUCATIONAL AGENCIES.—

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(1) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this subpart, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 percent of the amount appropriated for payments on the basis of entitlements computed under subsection (b) for that fiscal year, for the purpose of enabling the Secretary to provide financial assistance in accordance with the provisions of this subpart to schools—

(A) which are located on or near reservations; and

(B) which—

(i) are not local educational agencies, or

(ii) have not been local educational agencies for more than 3 years.

California. Oklahoma. Alaska.

(2) The requirements of clause (A) of paragraph (1) shall not apply to any school serving Indian children in California, Oklahoma, or Alaska.

(d) GRANTS FOR DEMONSTRATION PROJECTS.—In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this subpart, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 percent of the amount appropriated for payments of entitlements computed under subsection (b) for that fiscal year, for the purpose of enabling

the Secretary to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve educational opportunities for Indian children, except that the Secretary shall reserve a portion not to exceed 25 percent of such funds to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children.

SEC. 5313. USES OF FEDERAL FUNDS. 25 USC 2603.

Grants under this subpart may be used, in accordance with applications approved under section 5314, for—

(1) planning and development of programs specifically designed to meet the special educational or culturally related academic needs, or both, of Indian children, including pilot projects designed to test the effectiveness of plans so developed;

(2) the establishment, maintenance, and operation of such programs, including, in accordance with regulations of the Secretary, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment; and

(3) the training of counselors at schools eligible to receive funds under this subpart in counseling techniques relevant to the treatment of alcohol and substance abuse.

SEC. 5314. APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL. 25 USC 2604.

(a) IN GENERAL.—A grant provided under this subpart, except as provided in section 5312(b), may be made only to a local educational agency or agencies, and only upon application to the Secretary at such time or times, in such manner, and containing or accompanied by such information as the Secretary deems necessary. Such application shall—

(1) provide that the activities and services for which assistance under this subpart is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes of section 5313, and provide for such methods of administration as are necessary for the proper and efficient operation of the program; 102 STAT. 399

(3) in the case of an application for payments for planning, provide that—

(A) the planning was or will be directly related to programs or projects to be carried out under this subpart and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this subpart, and

(B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this subpart;

(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Indian students;

(5) set forth policies and procedures which assure that Federal funds made available under this subpart for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the education of Indian children and in no case supplant such funds;

(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this subpart; and

(7) provide for making an annual report and such other reports, in such form and containing such information, as the Secretary may reasonably require to carry out his functions Reports. Records.

under this subpart and to determine the extent to which funds provided under this subpart have been effective in improving the educational opportunities of Indian students in the area served, and for the keeping of such records, and the affording of such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports.

(b) APPROVAL OF APPLICATIONS.—An application by a local educational agency or agencies for a grant under this subpart may be approved only if it is consistent with the applicable provisions of this subpart and—

(1) meets the requirements set forth in subsection (a);

(2) provides that the program or project for which application is made—

(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

(B) has been developed—

(i) in open consultation with parents of Indian children, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(ii) with the participation and written approval of a committee—

102 STAT. 400

(I) which is composed of, and selected by, parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students, and

(II) of which at least half the members shall be parents described in subclause (I);

(3) sets forth such policies and procedures including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of paragraph (2)(B)(ii); and

(4) provides that the parent committee formed pursuant to paragraph (2)(B)(ii) will adopt and abide by reasonable bylaws for the conduct of the program for which assistance is sought.

(c) AMENDMENTS OF APPLICATIONS.—Amendments of applications submitted under this subpart shall, except as the Secretary may otherwise provide by regulation, be subject to approval in the same manner as original applications.

(d) ELIGIBILITY FORMS.—

(1) The Secretary shall require that each application for a grant under this subpart for each fiscal year include a form for each eligible Indian child for whom the local educational agency is providing free public education that sets forth information establishing the status of the child as an eligible Indian child.

(2) The Secretary shall request on the form required under paragraph (1) at least the following information:

(A) either—

(i) the name of the tribe, band, or other organized group of Indians with which the child claims membership, along with the enrollment number establishing membership (if readily available), and the name and address of the organization which has updated and accurate membership data for such tribe, band, or other organized group of Indians, or

(ii) if the child is not a member of a tribe, band, or other organized group of Indians, the name, the enrollment number (if readily available) and the organization (and address thereof) responsible for maintaining

updated and accurate membership rolls of any of the child's parents or grandparents, from whom the child claims eligibility;

(B) whether the tribe, band, or other organized group of Indians with which the applicant, his parents, or grandparents claim membership is federally recognized;

(C) the name and address of the parent or legal guardian;

(D) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

(E) any other information which the Secretary deems necessary to provide an accurate program profile.

(3) Nothing in the requirements of paragraph (2) may be construed as affecting the definition set forth in section 5351(4). The failure of an applicant to furnish any information listed in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child.

102 STAT. 401

(4) The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–1986 academic year to establish a child's eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the only forms and standards of proof used to establish such eligibility and to meet the requirements of paragraph (1) after the date of enactment of this Act.

(5) For purposes of determining whether a child is an eligible Indian child, the membership of the child, or any parent or grandparent of the child, in a tribe, band, or other organized group of Indians may be established by proof other than an enrollment number, even if enrollment numbers for members of such tribe, band, or groups are available. Nothing in paragraph (2) may be construed as requiring the furnishing of enrollment numbers.

(e) AUDITING; PENALTIES FOR FALSE INFORMATION.—

(1)(A) The Secretary shall establish a method of auditing, on an annual basis, a sample of not less than one-fourth of the total number of local education agencies receiving funds under this subpart and shall submit to the Congress an annual report on the findings of the audits. Reports.

(B) For purposes of any audit conducted by the Federal Government with respect to funds provide under this subpart, all procedures, practices, and policies that are established by—

(i) the Office of Indian Education of the Department of Education, or

(ii) a grantee under this subpart who, in establishing such procedures, practices, and policies, was acting under the direction of any employee of such Office that is authorized by the Director of such Office to provide such direction,

shall, with respect to the period beginning on the date of the establishment of such procedures, practices, and policies, and ending on the date (if any) on which the Director of such Office revokes authorization for such procedures, practices, and policies, be considered appropriate and acceptable procedures, practices, and policies which are in conformity with Federal law.

(C) No local education agency may be held liable to the United States, or be otherwise penalized, by reason of the findings of any audit conducted before the date of enactment of this Act that—

(i) relate to the date of completion, or the date of submission, of any forms used to establish a child's eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act, and

(ii) are the subject of any administrative or judicial proceeding pending on the date of enactment of this Act.

(2) Any local educational agency that provides false information in the application for a grant under this subpart shall be

ineligible to apply for any other grants under this subpart and shall be liable to the United States for any funds provided under this subpart that have not been expended.

(3) Any student who provides false information on the form required under subsection (d)(1) may not be taken into account in determining the amount of any grant under this subpart.

102 STAT. 402

25 USC 2605.

SEC. 5315. PAYMENTS.

(a) IN GENERAL.—The Secretary shall, subject to the provisions of section 5316, from time-to-time pay to each local educational agency which has had an application approved under section 5314, an amount equal to the amount estimated to be expended by such agency in carrying out activities under such application.

(b) DENIAL OF PAYMENTS IF PAYMENTS TAKEN INTO ACCOUNT BY STATE.—No payments shall be made under this subpart for any fiscal year to any local educational agency in a State which has taken into consideration payments under this subpart in determining the eligibility of such local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(c) REDUCTION FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

"(1) Except as provided in paragraph (2), a local educational agency may receive funds under this subpart for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The State educational agency shall reduce the amount of the allocation of funds under this subpart in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) The State educational agency may waive, for 1 fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

25 USC 2606.

SEC. 5316. AUTHORIZATION OF APPROPRIATIONS; ADJUSTMENTS.

(a) IN GENERAL.—For the purpose of making payments under this subpart, there are authorized to be appropriated—

(1) for fiscal year 1988, $70,000,000, and

(2) for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, such sums as may be necessary.

(b) REALLOCATIONS.—The Secretary may reallocate, in such manner as will best assist in advancing the purposes of this subpart, any amount which the Secretary determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.

102 STAT. 403

Grants.

Subpart 2—Special Programs and Projects to Improve Educational Opportunities for Indian Children

25 USC 2621.

SEC. 5321. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

(a) IN GENERAL.—The Secretary shall carry out a program of making grants for the improvement of educational opportunities for Indian children—

(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children;

(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate—

(A) the provision of educational services not available to Indian children in sufficient quantity or quality, and

(B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Indian children are educated;

(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Indian children as educational personnel; and

(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian children.

(b) DEMONSTRATION PROJECTS.—The Secretary is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribes, Indian organizations, and Indian institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children, including—

(1) innovative programs related to the educational needs of educationally deprived children;

(2) bilingual and bicultural education programs and projects;

(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

(4) coordination of the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

(c) SERVICES AND PROGRAMS TO IMPROVE EDUCATIONAL OPPORTUNITIES.—

(1) The Secretary is authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Such grants may be used—

(A) to provide educational services not available to such children in sufficient quantity or quality, including— 102 STAT. 404

(i) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

(ii) comprehensive academic and vocational instruction;

(iii) instructional materials (such as library books, textbooks, and other printed, published, or audiovisual materials) and equipment;

(iv) comprehensive guidance, counseling, and testing services;

(v) special education programs for handicapped and gifted and talented Indian children;

(vi) early childhood programs, including kindergarten;

(vii) bilingual and bicultural education programs; and

(viii) other services which meet the purposes of this subsection; and

(B) to establish and operate exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

(2) In addition to the grants provided under paragraph (1), the Secretary is authorized to provide grants to consortia of Indian tribes or tribal organizations, local educational agencies, and institutions of higher education for the purpose of developing, improving, and implementing a program of—

(A) encouraging Indian students to acquire a higher education, and

(B) reducing the incidence of dropouts among elementary and secondary school students.

(d) TRAINING.—

(1) The Secretary is authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

(A) to prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(B) to improve the qualifications of such persons who are serving Indian students in such capacities.

(2) Grants made under this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences.

(3) In programs funded by grants authorized under this subsection, preference shall be given to the training of Indians.

(e) GRANTS FOR EVALUATION AND TECHNICAL ASSISTANCE.—

(1) The Secretary is authorized to make grants to, and to enter into contracts with, public agencies, State educational agencies in States in which more than 5,000 Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, and Indian organizations, and to make contracts with private institutions and organizations, to establish, on a regional basis, information centers to—

102 STAT. 405

(A) evaluate programs assisted under this Act and under other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and adults and to conduct research to determine those needs;

(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 5314(b)(2)(B)(ii) in evaluating and carrying out programs assisted under this Act, through the provision of materials and personnel resources; and

Public information.

(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children and adults, including information on successful models and programs designed to meet the special educational needs of Indian children.

Contracts.

(2) Grants or contracts made under this subsection may be made for a term not to exceed 3 years and may be renewed for additional 3-year terms if provision is made to ensure annual review of the projects.

Contracts.

(3) From funds appropriated under the authority of subsection (g)(1), the Secretary is authorized to make grants to, and to enter into contracts with, Indian tribes, Indian institutions, and Indian organizations, and public agencies and institutions for—

(A) the national dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

(B) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.

(4) The sum of the grants made under this subsection to State educational agencies for any fiscal year shall not exceed 15 percent of the total amount of funds appropriated for the provision of grants under this subsection for such fiscal year.

(f) APPLICATIONS FOR GRANTS.—

(1) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be required under regulations prescribed by the Secretary. Such applications shall—

(A) set forth a statement describing the activities for which assistance is sought;

(B) in the case of an application for a grant under subsection (c)—

(i) subject to such criteria as the Secretary shall prescribe, provide for—

(I) the use of funds available under this section, and

(II) the coordination of other resources available to the applicant,

in order to ensure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section, and 102 STAT. 406

(ii) provide for the training of personnel participating in the project; and

(C) provide for an evaluation of the effectiveness of the project in achieving its purpose and the purposes of this section.

(2)(A) The Secretary may approve an application for a grant under subsection (b), (c), or (d) only if the Secretary is satisfied that such application, and any document submitted with respect thereto—

(i) demonstrate that—

(I) there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and

(II) there will be such participation in the operation and evaluation of the project, and

(ii) provide for the participation, on an equitable basis, of eligible Indian children—

(I) who reside in the area to be served,

(II) who are enrolled in private nonprofit elementary and secondary schools, and

(III) whose needs are of the type which the program is intended to meet,

to the extent consistent with the number of such children.

(B) In approving applications under this section, the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(3) The Secretary may approve an application for a grant under subsection (e) only if the Secretary is satisfied that the funds made available under that subsection will be used to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds provided under that subsection, be made available by the State or local educational agency for the activities described in that subsection, and in no case will be used to supplant those funds.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) For the purpose of making grants under the provisions of this section, there are authorized to be appropriated $35,000,000 for each fiscal year ending prior to October 1, 1993.

(2) For the purpose of making grants under subsection (e)(1), there are authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1993.

25 USC 2622.

SEC. 5322. SPECIAL EDUCATIONAL TRAINING PROGRAMS FOR THE TEACHERS OF INDIAN CHILDREN.

Contracts.

(a) IN GENERAL.—

(1) The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education, Indian organizations, and Indian tribes for the purpose of—

(A) preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian people, and

(B) providing in-service training for persons teaching in such programs.

(2) Priority shall be given in the awarding of grants, and in the entering into of contracts, under subsection (a) to Indian institutions and organizations.

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(b) FELLOWSHIPS AND TRAINEESHIPS.—

Contracts.

(1) In carrying out the provisions of this section, the Secretary is authorized to award fellowships and traineeships to individuals and to make grants to, and to enter into contracts with, institutions of higher education, Indian organizations, and Indian tribes for the costs of education allowances.

(2) In awarding fellowships and traineeships under this subsection, the Secretary shall give preference to Indians.

(3) In the case of traineeships and fellowships, the Secretary is authorized to grant stipends to, and allowances for dependents of, persons receiving traineeships and fellowships.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year ending prior to October 1, 1993, such sums as may be necessary to carry out the provisions of this section.

25 USC 2623.

SEC. 5323. FELLOWSHIPS FOR INDIAN STUDENTS.

(a) IN GENERAL.—During each fiscal year ending prior to October 1, 1993, the Secretary is authorized to award fellowships to be used for study in graduate and professional programs at institutions of higher education. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not more than 4 academic years leading toward a post baccalaureate degree in medicine, clinical psychology, psychology, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

(b) STIPENDS.—The Secretary shall pay to persons awarded fellowships under subsection (a) such stipends (including such allowances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION.—The Secretary shall pay to the institution of higher education at which the holder of a fellowship awarded under subsection (a) is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Secretary may determine to be necessary to cover the cost of education provided the holder of such a fellowship.

(d) SPECIAL RULES.—

(1) The Secretary may, if a fellowship awarded under subsection (a) is vacated prior to the end of the period for which it was awarded, award an additional fellowship for the remainder of such period.

(2) By no later than the date that is 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under

subsection (a) for such academic term written notice of the amount of such fellowship and of any stipends or other payments that will be made under this section to, or for the benefit of, such individual for such academic term.

(3) Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1989, and for each of the 4 succeeding fiscal years, such sums as may be necessary to carry out the provisions of this section.

102 STAT. 408

SEC. 5324. GIFTED AND TALENTED.

25 USC 2624.

(a) ESTABLISHMENT OF CENTERS.—The Secretary shall establish 2 centers for gifted and talented Indian students at tribally controlled community colleges.

(b) DEMONSTRATION PROJECTS.—

Contracts.

(1) The Secretary shall award separate grants to, or enter into contracts with—

(A) 2 tribally controlled community colleges that—

(i) are eligible for funding under the Tribally Controlled Community College Assistance Act of 1978, and

(ii) are fully accredited, or

(B) if acceptable applications are not submitted to the Secretary by 2 of such colleges, the American Indian Higher Education Consortium,

for the establishment of centers under subsection (a) and for demonstration projects designed to address the special needs of Indian students in elementary and secondary schools who are gifted and talented and to provide those support services to their families that are needed to enable the students to benefit from the project.

(2) Any person to whom a grant is made, or with whom a contract is entered into, under paragraph (1) may enter into a contract with any other persons, including the Children's Television Workshop, for the purpose of carrying out the demonstration projects for which such grant was awarded or for which the contract was entered into by the Secretary.

Children's Television Network.

(3) Demonstration projects funded under this section may include—

(A) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to the emotional and psychosocial needs of these students and to the provision of those support services to their families that are needed to enable these students to benefit from the project;

(B) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions;

(C) the provision of technical assistance and the coordination of activities at schools which receive grants under subsection (d) with respect to the activities funded by such grants, the evaluation of programs at such schools funded by such grants, or the dissemination of such evaluations;

(D) the use of public television in meeting the special educational needs of such gifted and talented children;

(E) leadership programs designed to replicate programs for such children throughout the United States, including the dissemination of information derived from the demonstration projects conducted under this section; and

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(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of those support services to their families that are needed to enable such children to benefit from the project.

(c) ADDITIONAL GRANTS.—

(1) The Secretary, in consultation with the Secretary of the Interior, shall provide 5 grants to schools that are Bureau funded schools for program research and development regarding, and the development and dissemination of curriculum and teacher training material regarding—

(A) gifted and talented students,

(B) college preparatory studies (including programs for Indian students interested in teaching careers),

(C) students with special culturally related academic needs, including social, lingual, and cultural needs, and

(D) math and science education.

(2) Applications for the grants provided under paragraph (1) shall be submitted to the Secretary in such form and at such time as the Secretary may prescribe. Applications for such grants by Bureau schools, and the administration of any of such grants made to a Bureau school, shall be undertaken jointly by the supervisor of the Bureau school and the local school board.

(3) Grants may be provided under paragraph (1) for one or more activities described in paragraph (1).

(4) In providing grants under paragraph (1), the Secretary shall—

(A) achieve a mixture of programs described in paragraph (1) which ensures that students at all grade levels and in all geographic areas of the United States are able to participate in some programs funded by grants provided under this subsection, and

(B) ensure that a definition of the term "gifted and talented student" for purposes of this section and section 1128(c)(1)(A)(ii) of the Education Amendments of 1978 is developed as soon as possible.

(5) Subject to the availability of appropriated funds, grants provided under paragraph (1) shall be made for a 3-year period and may be renewed by the Secretary for additional 3-year periods if performance by the grantee is satisfactory to the Secretary.

(6)(A) The dissemination of any materials developed from activities funded by grants provided under paragraph (1) shall be carried out in cooperation with institutions receiving funds under subsection (b).

Reports.

(B) The Secretary shall report to the Secretary of the Interior and to the Congress any results from activities described in paragraph (4)(B).

(7)(A) The costs of evaluating any activities funded by grants made under paragraph (1) shall be divided between the school conducting such activities and the evaluator.

Contracts.

(B) If no funds are provided under subsection (b) for—

(i) the evaluation of activities funded by grants made under paragraph (1),

(ii) technical assistance and coordination with respect to such activities, or

(iii) dissemination of such evaluations,

the Secretary shall, by grant or through contract, provide for such evaluations, technical assistance, coordination, and dissemination.

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(d) INFORMATION NETWORK.—The Secretary shall encourage persons to whom a grant is made, or with whom a contract is entered into, under this section to work cooperatively as a national network so that the information developed by such persons is readily available to the entire educational community.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 for each of the fiscal years 1988, 1989,

1990, 1991, 1992, and 1993 for the purpose of carrying out the provisions of this section. Such sums shall remain available until expended.

Subpart 3—Special Programs Relating to Adult Education for Indians

Grants.

SEC. 5330. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

25 USC 2631.

(a) IN GENERAL.—The Secretary shall carry out a program of awarding grants to State and local educational agencies and to Indian tribes, institutions, and organizations—

(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs which are designed to stimulate—

(A) the provision of basic literacy opportunities to all nonliterate Indian adults, and

(B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians; and

(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

Public information.

(b) EDUCATIONAL SERVICES.—The Secretary is authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

(c) INFORMATION AND EVALUATION.—The Secretary is also authorized to make grants to, and to enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations for—

Contracts.

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of such programs in achieving the purposes of such programs with respect to such adults.

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(d) APPLICATIONS.—

(1) Applications for a grant under this section shall be submitted at such time, in such manner, contain such information, and be consistent with such criteria, as may be required under regulations prescribed by the Secretary. Such applications shall—

(A) set forth a statement describing the activities for which assistance is sought; and

(B) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

(2) The Secretary shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that—

(A) there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and

(B) there will be such a participation in the operation and evaluation of the project.

(3) In approving applications under subsection (a), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1989, and for each of the 4 succeeding fiscal years, such sums as may be necessary to carry out the provisions of this section.

Subpart 4—Program Administration

Establishment. 25 USC 2641.

SEC. 5341. OFFICE OF INDIAN EDUCATION.

(a) IN GENERAL.—There is established, in the Department of Education, an Office of Indian Education.

(b) DIRECTOR.—

(1) The Office of Indian Education shall be under the direction of the Director of the Office of Indian Education, who shall be appointed by the Secretary from a list of nominees submitted to the Secretary by the National Advisory Council on Indian Education.

(2) The Director of the Office of Indian Education shall—

(A) be responsible for administering the provisions of this part,

(B) be responsible for the development of all policies and procedures relative to the implementation of this part,

(C) be involved in, and primarily responsible for, development of all policies affecting Indians under programs within the Office of Elementary and Secondary Education of the Department of Education, and

(D) coordinate the development of policy and practices for all programs in the Department of Education relating to Indians and Alaskan Natives.

(2) The Director of the Office of Indian Education shall report directly to the Assistant Secretary of Education for Elementary and Secondary Education.

(3) The Director of the Office of Indian Education shall be compensated at the rate prescribed for, and shall be placed in, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall perform such duties as are delegated or assigned to the Director by the Secretary. The position created by this subsection shall be in addition to the number of positions placed in grade 18 of such General Schedule under section 5108 of title 5, United States Code.

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(c) INDIAN PREFERENCE.—

(1)(A) All professional staff within the Office of Indian Education shall have experience with Indian education programs. The Secretary shall give a preference to Indians in all personnel actions within the Office of Indian Education. Such preference shall be implemented in the same fashion as the preference given to any veteran referred to in subparagraph (A), (B), or (C) of section 2108(3) of title 5, United States Code.

(B) The provisions of this paragraph shall apply to all personnel actions taken after the date of enactment of this Act.

(2) The Secretary shall provide a one-time preference for qualified individuals who—

(A) are not Indians,

(B) are serving within the Office of Indian Education on the date of enactment of this Act, and

(C) desire to take another position in the Department of Education which is not within the Office of Indian Education and for which there is a vacancy.

Establishment. 25 USC 2642.

SEC. 5342. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

(a) IN GENERAL.—

(1) There is hereby established the National Advisory Council on Indian Education (hereafter in this subpart referred to as the "National Council"), which—

(A) shall consist of 15 members who are Indians appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and

(B) shall represent diverse geographic areas of the country.

(2) Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until October 1, 1993. Termination date.

(b) FUNCTIONS.—The National Council shall—

(1) advise the Secretary with respect to—

(A) the administration (including the development of regulations and of administrative practices and policies) of any program—

(i) in which Indian children or adults participate, or

(ii) from which they can benefit, including this part, and

(B) adequate funding of such programs;

(2) review applications for assistance under this part and make recommendations to the Secretary with respect to their approval;

(3) evaluate programs and projects carried out under any program of the Department of Education in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

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(5) assist the Secretary in developing criteria and regulations for the administration and evaluation of grants made under subpart 1; Regulations.

(6) submit to the Secretary a list of nominees for the position of Director of the Office of Indian Education whenever a vacancy in such position occurs, and

(7) submit to the Congress by no later than June 30 of each year a report on its activities, which shall include— Reports.

(A) any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, and

(B) a statement of the National Council's recommendations to the Secretary with respect to the funding of any such programs.

(c) CONTRACTING.—With respect to functions of the National Council described in paragraphs (2), (3), and (4) of subsection (b), the National Council is authorized to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) FUNDING.—From sums appropriated pursuant to section 400(d) of the General Education Provisions Act which are available for part D of such Act, the Secretary shall make available such sums as may be necessary to enable the National Council to carry out its functions under this section.

SEC. 5343. AUTHORIZATION OF APPROPRIATIONS. 25 USC 2643.

There are authorized to be appropriated for fiscal year 1989, and each of the 4 succeeding fiscal years, such sums as may be necessary to carry out the provisions of this subpart.

Subpart 5—Miscellaneous

SEC. 5351. DEFINITIONS. 25 USC 2651.

For purposes of this part—

(1) The term "adult" means any individual who—

(A) is 16 years old or older, or

(B) who is beyond the age of compulsory school attendance under State law.

(2) The term "adult education" means instruction or services below college level for adults who are not enrolled in a secondary school and who do not have—

(A) the basic skills to enable them to function effectively in society, or

(B) a certificate of graduation from a school providing secondary education (and who have not achieved an equivalent level of education).

(3) The term "free public education" means education that is provided at public expense, under public supervision and direction, and without tuition charge, and that is provided as elementary or secondary education in the applicable State.

(4) The term "Indian" means any individual who is—

(A) a member of an Indian tribe, band, or other organized group of Indians (as defined by the Indian tribe, band, or other organized group), including those Indian tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside,

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(B) a descendant, in the first or second degree, of an individual described in subparagraph (A),

(C) considered by the Secretary of the Interior to be an Indian for any purpose,

(D) an Eskimo, Aleut, or other Alaska Native, or

(E) is determined to be an Indian under regulations promulgated by the Secretary after consultation with the National Advisory Council on Indian Education.

(5)(A) The term "local educational agency" has the meaning given to such term by section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(B) The term "local educational agency", for purposes of subpart 1 (except for sections 5314(b)(2)(B)(ii) and 5315(c)(2)) includes—

(i) any Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, that operates a school for the children of that tribe if the school either—

(I) provides its students an educational program that meets the standards established by the Secretary of the Interior under section 1121 of the Education Amendments of 1978, or

(II) is operated by that tribe or organization under a contract with the Department of the Interior in accordance with the Indian Self-Determination and Education Assistance Act, and

(ii) for the fiscal year described in section 5312(b)(3)(A) and each succeeding fiscal year, any school operated by the Bureau of Indian Affairs of the Department of the Interior, either individually or in cooperation with any other local education agency.

(6) The term "parent" includes an individual acting in loco parentis, other than by virtue of being a school administrator or official.

(7) The term "Secretary" means the Secretary of Education.

(8) The terms "Bureau school", "contract school", and "Bureau funded school" have the respective meaning given to such terms by section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019).

SEC. 5352. CONFORMING AMENDMENTS.

The following provisions of law are hereby repealed:

(1) The Indian Elementary and Secondary School Assistance Act.

20 USC 241aa *et seq.*

(2) Section 1005 of the Elementary and Secondary Education Act of 1965.

20 USC 3385.

(3) Section 315 of the Adult Education Act.
(4) Sections 421(b)(2), 422, 423, 441, 442, and 453 of the Indian Education Act (title IV of Public Law 92-318).

20 USC 1211, 1411 note, 3385a, 3385b, 1221f-1221h.

PART D—MISCELLANEOUS PROVISIONS

SEC. 5401. NAVAJO COMMUNITY COLLEGE.

Paragraph (1) of section 5(b) of the Navajo Community College Act (25 U.S.C. 640c-1(b)(1)) is amended to read as follows:

"(1) There are authorized to be appropriated for grants to the Navajo Community College, for each fiscal year, an amount necessary to pay expenses incurred for—

Appropriation authorization.
Grants.

"(A) the maintenance and operation of the college, including— 102 STAT. 415

"(i) basic, special, developmental, vocational, technical, and special handicapped education costs,

"(ii) annual capital expenditures, including equipment needs, minor capital improvements and remodeling projects, physical plant maintenance and operation costs, and exceptions and supplemental need account, and

"(iii) summer and special interest programs,

"(B) major capital improvements, including internal capital outlay funds and capital improvement projects,

"(C) mandatory payments, including payments due on bonds, loans, notes, or lease purchases, and

"(D) supplemental student services, including student housing, food service, and the provision of access to books and services.".

SEC. 5402. PAYMENT OF GRANTS; INTEREST.

(a) TRIBALLY CONTROLLED COMMUNITY COLLEGES.—Subsection (b) of section 108 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(b)) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(1) The Secretary", and

(2) by adding at the end thereof the following new paragraphs:

Securities.

"(2) Notwithstanding any other provision of law, the Secretary shall not, in disbursing funds provided under this title, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this title.

"(3)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this title after such funds are paid to the tribally controlled community college and before such funds are expended for the purpose for which such funds were provided under this title shall be the property of the tribally controlled community college and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the tribally controlled community college under any provision of Federal law.

"(B) All interest or investment income described in subparagraph (A) shall be expended by the tribally controlled community college by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

"(4) Funds provided under this title may only be invested by the tribally controlled community college in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.".

(b) NAVAJO COMMUNITY COLLEGE.—The Navajo Community College Act is amended by adding at the end thereof the following new section:

"PAYMENTS; INTEREST

"SEC. 7. (a) Notwithstanding any other provision of law, the Secretary of the Interior shall not, in disbursing funds provided

25 USC 640c-3.

under this Act, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this Act.

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Securities.

"(b)(1)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this Act after such funds are paid to the Navajo Community College and before such funds are expended for the purpose for which such funds were provided under this Act shall be the property of the Navajo Community College and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the Navajo Community College under any provision of Federal law.

"(B) All interest or investment income described in subparagraph (A) shall be expended by the Navajo Community College by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

"(2) Funds provided under this Act may only be invested by the Navajo Community College in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.".

SEC. 5403. MATCHING FUNDS.

(a) TRIBALLY CONTROLLED COMMUNITY COLLEGES.—Section 109 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1809) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, funds provided under this title to the tribally controlled community college may be treated as non-Federal, private funds of the college for purposes of any provision of Federal law which requires that non-Federal or private funds of the college be used in a project or for a specific purpose.".

(b) NAVAJO COMMUNITY COLLEGE.—Section 6 of the Navajo Community College Act is amended—

25 USC 640c-2.

(1) by striking out "Except" and inserting in lieu thereof "(a Except", and

(2) by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, funds provided under this Act to the Navajo Community College may be treated as non-Federal, private funds of the College for purposes of any provision of Federal law which requires that non-Federal or private funds of the college be used in a project or for a specific purpose.".

25 USC 309b.

(c) VOCATIONAL EDUCATION FUNDS.—Notwithstanding any other provision of law, funds provided by the Bureau for adult vocational education to any vocational school (as defined for purposes of any program of assistance to students under the Higher Education Act of 1965) may be treated as non-Federal, private funds of such school for purposes of any provision of Federal law which requires that non-Federal or private funds of such school be used in a project or for a specific purpose.

25 USC 13d-2.

SEC. 5404. ENROLLMENT AND GENERAL ASSISTANCE PAYMENTS.

(a) IN GENERAL.—The Secretary of the Interior shall not disqualify from continued receipt of general assistance payments from the Bureau of Indian Affairs an otherwise eligible Indian for whom the Bureau has been making general assistance payments for at least 3 months (or exclude such an individual from continued consideration in determining the amount of general assistance payments for a household) because the individual is enrolled (and is making satisfactory progress toward completion of a program or training that can reasonably be expected to lead to gainful employment) for at least half-time study or training in—

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(1) a college assisted by the Bureau under the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325; 25 U.S.C. 1801) or the Navajo Community College Act (85 Stat. 645; 25 U.S.C. 640a);

(2) an institution of higher education or a vocational school (as defined for purposes of any program of assistance to students under the Higher Education Act of 1965);

(3) a course the Secretary determines will lead to a high school diploma or an equivalent certificate; or

(4) other programs or training approved by the Secretary.

(b) FACTORS NOT TO BE CONSIDERED.—In determining the amount of general assistance provided by the Bureau of Indian Affairs, the Secretary of the Interior shall not include consideration of—

(1) additional expenses in connection with the study or training described in subsection (a), and

(2) the amount of any financial assistance received by the individual as a student or trainee.

(c) NO EFFECT ON OTHER ELIGIBILITY REQUIREMENTS.—This section does not alter any eligibility requirement for general assistance from the Bureau of Indian Affairs other than the requirement to be available for employment and to seek employment.

SEC. 5405. USE OF BUREAU FACILITIES. 25 USC 17.

(a) IN GENERAL.—The Secretary of the Interior may permit tribal, student, and other non-Federal organizations to use facilities, lands, and equipment administered by the Bureau of Indian Affairs if such use does not interfere with the purpose for which the facilities, land, and equipment are administered by the Bureau. The Secretary of the Interior may charge the user for the actual or estimated additional cost of utilities or other expenses incurred because of the use and the amounts collected shall be credited to the appropriation or fund from which the expenses are paid.

(b) SCOPE OF AUTHORITY.—The authority provided by this section is in addition to, and not in derogation of, any other authority available to the Secretary of the Interior.

SEC. 5406. INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) TERMINATION OF CIVIL SERVICE POSITIONS.—Paragraph (1) of section 1509(g) of the Higher Education Amendments of 1986 (20 U.S.C. 4416(g)(1)) is amended by striking out "At the end of the 2-year period beginning on the date referred to in section 1514(f)" and inserting in lieu thereof "On June 30, 1989".

(b) ENDOWMENT PROGRAM.—Section 1518 of the Higher Education Amendments of 1986 (20 U.S.C. 4425) is amended—

(1) by striking out "From the amount appropriated pursuant to section 1521(a), the Secretary shall make available to the Institute not more than $500,000 which" in subsection (a)(1) and and inserting in lieu thereof "From amounts appropriated under section 1531(a), not more than $500,000", and

(2) by striking out "ALLOCATION OF FUNDS.—From the amount appropriated pursuant to section 1521(a), the Secretary shall allocate to the Institute an amount for" in subsection (d) and inserting in lieu thereof "PAYMENT OF FEDERAL CONTRIBUTION.—Amounts appropriated under section 1531(a) for use under this section shall be paid by the Secretary of the Treasury to the Institute as". 102 STAT. 418

(c) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 1531 of the Higher Education Amendments of 1986 (20 U.S.C. 4451(a)) is amended to read as follows:

"(a) PART A.—

"(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of part A.

"(2) Funds appropriated under the authority of paragraph (1) shall remain available without fiscal year limitation.

"(3) Except as provided for amounts subject to section 1518(d), amounts appropriated under the authority of this subsection for fiscal year 1989, and for each succeeding fiscal year, shall be paid to the Institute at the later of—

"(A) the beginning of the fiscal year, or

"(B) upon enactment of such appropriation.".

(d) UNOBLIGATED APPROPRIATION AND RESPONSIBILITY FOR OBLIGATIONS.—Subsection (e) of section 1514 of the Higher Education Amendments of 1986 (20 U.S.C. 4421(e)) is amended by adding at the end thereof the following new paragraphs:

"(3) Any funds appropriated for the Institute for fiscal year 1988 that are not expended or obligated on the date described in paragraph (2) shall be paid to the Institute within 10 days of that date.

"(4) The Institute shall be responsible for all obligations of the Institute incurred after the date described in paragraph (2) and the Secretary of the Interior shall be responsible for all obligations of the Institute incurred on or before that date.

(e) ACCOUNTING FOR NON-FEDERAL FUNDS.—Section 1507 of the Higher Education Amendments of 1986 (20 U.S.C. 4414) is amended—

(1) by striking out "In carrying out" and inserting in lieu thereof "(a) IN GENERAL.—In carrying out", and

(2) by adding at the end thereof the following new subsection:

"(b) ACCOUNTING FOR NON-FEDERAL FUNDS.—Any funds received by, or under the control of, the Institute that are not Federal funds shall be accounted for separately from Federal funds.".

(f) BUDGET PROPOSALS.—Subsection (b) of section 1515 of the Higher Education Amendments of 1986 (20 U.S.C. 4422(b)) is amended—

(1) by striking out "During the 2-year period beginning on the date referred to in section 1514(f)" in paragraph (1) and inserting in lieu thereof "Prior to October 1, 1988", and

(2) by striking out "the period described in paragraph (1)" in paragraph (2) and inserting in lieu thereof "September 30, 1988".

PART E—WHITE HOUSE CONFERENCE ON INDIAN EDUCATION

25 USC 2001 note.

SEC. 5501. FINDINGS.

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The Congress finds that—

(1) the Government of the United States has a special relationship with the Indians which has given rise to a responsibility to assure superior educational opportunities for all Indians;

(2) this responsibility is being carried out by Federal schools and federally funded programs;

(3) while the States provide educational services to the majority of Indian students in the United States, the State services are largely funded by Federal funds and are not, in any way, in derogation of the Federal responsibility;

(4) changes in the Federal and State systems in the past decade and the growth of tribal control over schools has led to substantial improvements in the educational opportunities and successes of Indian students;

(5) substantial and substantive problems continue to exist and interfere with the realization of full opportunities for Indian students; and

(6) identification of these problems through the convening of a White House conference will facilitate formulation of solutions.

25 USC 2001 note.

SEC. 5502. AUTHORIZATION TO CALL CONFERENCE.

President of U.S.

(a) IN GENERAL.—The President shall call and conduct a White House Conference on Indian Education (hereafter in this part referred to as the "Conference") which shall be held not earlier than September 1, 1989, and not later than September 30, 1991.

(b) PURPOSE.—The purpose of the White House Conference on Indian Education shall be to—

(1) explore the feasibility of establishing an independent Board of Indian Education that would assume responsibility for

all existing Federal programs relating to the education of Indians, and

(2) develop recommendations for the improvement of educational programs to make the programs more relevant to the needs of Indians, in accordance with the findings set forth in section 5501.

SEC. 5503. COMPOSITION OF CONFERENCE. 25 USC 2001 note.

(a) IN GENERAL.—The Conference shall be composed of—

(1) representatives of the Bureau of Indian Affairs of the Department of the Interior;

(2) representatives of Indian educational institutions, public schools, agencies, organizations and associations that deal with the education of Indians;

(3) educators from reservations and urban areas where Indians make up a substantial portion of the student population; and

(4) individuals with a special knowledge of, and special competence in dealing with, Indians and Indian problems, including education and health.

(b) SELECTION.—The President shall select one-third of the participants of the Conference, the Speaker of the House of Representatives shall select one-third of the participants, and the President pro tempore of the Senate shall select the remaining one-third of the participants.

(c) DISTRIBUTION OF PARTICIPANTS.—In selecting the participants of the Conference the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that— 102 STAT. 420

(1) one-fourth of the participants are individuals who are currently active educators on Indian reservations;

(2) one-fourth of the participants are educators selected from urban areas with large concentrations of Indians;

(3) one-fourth of the participants are individuals who are Federal and tribal government officials; and

(4) one-fourth of the participants are Indians, including members of Indian tribes that are not recognized by the Federal Government.

SEC. 5504. ADMINISTRATIVE PROVISIONS. 25 USC 2001 note.

(a) PLANNING AND DIRECTION.—The Conference shall be planned and conducted by the Interagency Task Force on the White House Conference on Indian Education (hereafter in this part referred to as the "Task Force").

(b) ESTABLISHMENT OF TASK FORCE.—

(1) If the President calls the Conference, the Secretary of the Interior and the Secretary of Education, acting jointly, shall establish the Task Force on the White House Conference on Indian Education which shall consist of such employees of the Department of the Interior and the Department of Education as the Secretary of the Interior and the Secretary of Education determine to be necessary to enable the Task Force to carry out its duties.

(2) The Secretary of the Interior and the Secretary of Education shall each appoint no less than 2 professional staff members and one support staff member to the Task Force.

(3) All staff assigned to the Task Force shall work on preparations for, and the conduct of, the Conference on a full-time basis.

(4) The Secretary of the Interior shall provide office space and materials for the Task Force, including an allowance for mailing costs.

(5) Each professional staff person appointed to the Task Force shall have expertise directly related to Indian education and at least one person appointed by the Secretary of the Interior shall be experienced in dealing with the Congress, Indian tribes, and nongovernmental organizations.

(6) The Secretary of the Interior and the Secretary of Education, acting jointly, shall designate one staff person as the Director of the Task Force.

(c) FUNCTION OF THE TASK FORCE.—The Task Force shall—

(1) when appropriate, request the cooperation and assistance of other Federal departments and agencies in order to carry out its responsibilities;

(2) prepare and make available background materials for the use of participants in the Conference and any associated State conferences, and prepare and distribute such reports of the Conference and of any associated State conferences as may be appropriate;

(3) make technical and financial assistance (by grants, contracts, or otherwise) available to the States and intertribal organizations to enable them to organize and conduct conferences and other meetings in order to prepare for the Conference; and

(4) conduct fiscal oversight activities with respect to the preparation for, and the convening of, the Conference, including contracting for the services of an auditor.

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(d) FEDERAL AGENCY COOPERATION AND ASSISTANCE.—

(1) Each Federal department and agency shall cooperate with, and provide assistance to, the Task Force upon request made by the Task Force under subsection (c)(1). For that purpose, each Federal department and agency is authorized and encouraged to provide personnel to the Task Force.

(2) The Commissioner of the Administration for Native Americans of the Department of Health and Human Services and the Director of the Indian Health Service of the Department of Health and Human Services are authorized to detail personnel to the Task Force, upon request, to enable the Task Force to carry out its functions under this part.

(e) PERSONNEL.—In carrying out the provisions of this part, the Task Force is authorized to engage such personnel as may be necessary to assist the Conference and the Advisory Committee of the Conference, without regard for the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(f) EXPENSES.—Participants in the Conference may, while away from their homes or regular places of business and attending the Conference, be allowed such travel expenses, including per diem in lieu of subsistence, as are allowed under section 5703 of title 5, United States Code. Such expenses may be paid by way of advances, reimbursement, or in installments, as the Task Force may determine.

25 USC 2001 note.

SEC. 5505. REPORTS.

(a) IN GENERAL.—A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than 120 days following the close of the Conference. The final report shall be made public and, within 90 days after its receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations of the President with respect to such report.

Public information.

Public information.

(b) DISTRIBUTION.—The Conference is authorized to publish and distribute for the Conference the reports authorized under this part. Copies of all such reports shall be provided to the Federal depository libraries.

Establishment. 25 USC 2001 note.

SEC. 5506. ADVISORY COMMITTEE.

(a) COMPOSITION.—There is hereby established the Advisory Committee of the Conference (hereafter in this part referred to as the "Advisory Committee") composed of—

(1) five individuals designated by the Speaker of the House of Representatives, with not more than three being Members of the House of Representatives;

(2) five individuals designated by the President pro tempore of the Senate, with not more than three being Members of the Senate;

(3) ten individuals appointed by the President;

(4) the Assistant Secretary of the Interior for Indian Affairs or a delegate of the Assistant Secretary;

(5) the Secretary of Education or a delegate of the Secretary; and

(6) the Director of the Task Force. 102 STAT. 422

The President, the President pro tempore of the Senate, and the Speaker of the House of Representatives, shall, after consultation with Indian tribes, ensure that members of the Advisory Committee are broadly representative of all Indians of the United States.

(b) FUNCTION.—The Advisory Committee shall assist and advise the Task Force in planning and conducting the Conference.

(c) ADMINISTRATION.—

(1) The Director of the Task Force shall serve as vice chairman of the Advisory Committee. The Advisory Committee shall elect the chairman of the Advisory Committee from among those members of the Advisory Committee who are not full-time Federal employees.

(2) The Advisory Committee shall select the chairman of the Conference.

(3) The chairman of the Advisory Committee is authorized to establish, prescribe functions for, and appoint members to such advisory and technical committees as may be necessary to assist and advise the Task Force in carrying out its duties.

(d) COMPENSATION.—Members of any committee established under this section who are not regular full-time officers or employees of the United States shall, while attending to the business of the Conference, be entitled to receive compensation at a rate fixed by the President that does not exceed the rate of pay specified at the time of such service for grade GS–18 under section 5332, of title 5, United States Code, including traveltime. Such members may, while away from their homes or regular places of business, be allowed travel expenses, including per diem in lieu of subsistence, as may be authorized under section 5703 of title 5, United States Code.

SEC. 5507. GIFTS AND TITLE TO CERTAIN PROPERTY.

25 USC 2001 note.
Grants.

(a) GIFTS.—The Task Force shall have authority to accept, on behalf of the Conference, in the name of the United States, grants, gifts, or bequests of money for immediate disbursement by the Task Force in furtherance of the Conference. Such grants, gifts, or bequests offered the Task Force, shall be paid by the donor or his representative into the Treasury of the United States in a special account to the credit of the Conference for the purposes of this part.

(b) DISPOSITION OF MATERIALS.—Materials and equipment acquired for the use of the Conference, or for the Task Force, shall be transferred to the Bureau of Indian Affairs after the close of the Conference.

SEC. 5508. AUTHORIZATION OF APPROPRIATIONS.

25 USC 2001 note.

There are authorized to be appropriated for each of the fiscal years 1988, 1989, and 1990 such sums as may be necessary to carry out this part. Such sums shall remain available until expended.

102 STAT. 423

TITLE VI—GENERAL AND MISCELLANEOUS PROVISIONS

PART A—MISCELLANEOUS EDUCATION PROVISIONS

Subpart 1—Education for the Homeless

SEC. 6001. TECHNICAL AMENDMENT.

42 USC 11421.

Section 702 of the Stewart B. McKinney Homeless Assistance Act is amended—

(1) by inserting at the end of subsection (b) the following: "Each such application shall include an estimate of the number of homeless expected to be served and the number of homeless adults within each of the school districts within the States to be served."; and

(2) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) The Secretary of Education shall, in making grants under this section, give special consideration to the estimates submitted in the application under subsection (b) of this section.".

Subpart 2—Special Grant Program

20 USC 1441 note.

SEC. 6011. EDUCATION AND TRAINING FOR INDIVIDUALS AT RISK.

(a)(1) GENERAL AUTHORITY.—The Secretary is authorized to make a grant for a project of national significance to develop or demonstrate new or improved methods of existing approaches or techniques which will contribute to the education and training for individuals who are at risk such as—

Handicapped persons.

(A) infants, toddlers, children (including preschoolers), youth, and adults with disabilities; and

(B) individuals with limited English proficiency.

Handicapped persons.

(2) The project funded under this section may include the development of—

Communications and telecommunications.

(A) a statewide delivery system for severely handicapped infants, toddlers, children, youth, and adults for access to adaptive technology, including alternative communication systems;

(B) a statewide comprehensive plan to strengthen and coordinate special education and related services for handicapped youth who are currently in school or who left school to assist such youth in making the transition to post-secondary education, vocational training, competitive employment (including supported employment), continuing education, or adult services.

(3) No grant may be made under this section unless an application is submitted to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

Rural areas.

(4) This grant shall be awarded to a predominantly rural centrally located western State which has a high birthrate and with a low per pupil expenditure.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $4,000,000 for the fiscal year 1989 to carry out the provision of this section.

102 STAT. 424

PART B—PROHIBITION OF DIAL-A-PORN

47 USC 223.

SEC. 6101. AMENDMENT TO THE COMMUNICATIONS ACT OF 1934.

Section 223(b) of the Communications Act of 1934 is amended—

(1) in paragraph (1)(A), by striking out "under eighteen years of age or to any other person without that person's consent";

(2) by striking out paragraph (2);

(3) in paragraph (4), by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraphs (1) and (2)"; and

(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

PART C—STUDIES

SEC. 6201. EVEN START STUDY.

20 USC 2748 note.

(a) INDEPENDENT EVALUATION.—The Secretary shall provide for an independent evaluation of a representative sample of programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to determine their effectiveness in providing—

(1) services to special populations;

(2) adult education services;

(3) parent training;

(4) home-based programs involving parents and children;

(5) coordination with related services programs; and

(6) training of related personnel in appropriate skill areas.

(b) CRITERIA.—

(1) Evaluations shall be conducted by individuals not directly involved in the administration of the program or project operation under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors under subsection (a). When possible, evaluations shall include comparisons with appropriate control groups.

(2) In order to determine a program's effectiveness in achieving its stated goals, the evaluations shall contain objective measures of such goals and, whenever feasible, shall obtain the specific views of program participants about such programs.

(c) REPORT TO CONGRESS AND DISSEMINATION.—The Secretary shall prepare and submit to the Congress the results of such evaluations. The evaluations shall be submitted to the National Diffusion Network in the form required for consideration for possible dissemination.

SEC. 6202. STUDENT DROPOUT STUDY.

20 USC 3241 note.

With the advice and consultation of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, the Secretary shall, with funds available under section 1439, conduct an evaluation of the programs funded under title VI of the Elementary and Secondary Education Act of 1965. The Secretary shall take into account data collected from the national school dropout study and shall incorporate information from any locally conducted evaluations and other objective evidence. The results of such evaluations shall be made available to the Congress, State educational agencies, and the National Diffusion Network.

102 STAT. 425

SEC. 6203. STUDY OF STATE OPERATED PROGRAM FOR HANDICAPPED CHILDREN.

20 USC 2791 note.

(a) STUDY REQUIRED.—(1) The Comptroller General of the United States shall conduct a study of the State Operated Program for Handicapped Children under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(2) Not later than January 30, 1989, the Comptroller General shall prepare and submit a report to the appropriate committees of the Congress containing the findings of such study to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

Reports.

(3) For the purpose of this section, the term "children" includes infants and toddlers.

(b) STUDY COMPONENTS.—The study shall include—

(1) a description of State and local agencies that participate in the program, the children the agencies serve, and the programs for which the agencies use funds;

(2) how such program is administered by the State educational agency or any predecessor agencies serving as fiscal agents for the States;

(3) the major policies, procedures and practices pertaining to the determination of when a child is considered eligible to be counted under such program; the allocation of funds to agencies, schools, programs and projects within schools; the supplementary nature of the services provided; and authorized use of funds;

(4) the policies and procedures governing the placement of handicapped children, including local educational agency transfer children, in schools and programs and projects receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

(5) the relationship between the chapter 1 of title I of the Elementary and Secondary Education Act of 1965 program and parts B and H of the Education of the Handicapped Act (conceptual relationship; comparison of how the two programs are administered by the State educational agency; and a comparison between the programs with respect to the extent to which handicapped children receive a free appropriate public education and such children and their parents are provided the rights and procedural safeguards guaranteed under part B of the Education of the Handicapped Act); and

(6) such other information as the Comptroller General considers appropriate.

(c) FINDINGS AND RECOMMENDATIONS.—The Comptroller General shall include in the report the findings based on the study, a State-by-State analysis for the States subject to the study, together with such recommendations, including recommendations for legislation, as the Comptroller General deems appropriate.

20 USC 2882 note.

SEC. 6204. STUDY ON TUTORING PROGRAMS.

The Secretary shall conduct a study of tutoring programs for eligible participants under chapter 1 of the Elementary and Secondary Education Act of 1965 carried out by students in institutions of higher education. In conducting such research, the Secretary shall (1) determine if such programs are effective, (2) determine the role the Federal Government should play in promoting and encouraging such programs, (3) determine if such programs are effective if conducted on a volunteer basis or whether it is necessary to offer incentives, such as tuition assistance, academic credit or reduced obligations for student loans, to induce participation by students in institutions of higher education, and (4) review available evidence on programs being conducted in foreign countries with a view toward determining whether their experience is applicable to the United States. The Secretary shall report the results of the study to the Congress within 1 year of the date of the enactment of this Act.

102 STAT. 426

Reports.

Reports. 20 USC 2973 note.

SEC. 6205. STUDY OF LOCAL USE OF CHAPTER 2 FUNDS.

(a) LOCAL EDUCATIONAL AGENCIES.—A local educational agency which receives financial assistance under chapter 2 of title I of the Elementary and Secondary Act of 1965 shall report annually to the State educational agency on the use of funds under section 1531 of such chapter. Such reporting shall be carried out in a manner which minimizes the amount of paperwork required while providing the State educational agency with the necessary information under the preceding sentence. Such report shall be made available to the public.

(b) STATE EDUCATIONAL AGENCIES.—A State educational agency which receives financial assistance under chapter 2 of title I of the Elementary and Secondary Education Act of 1965 shall annually evaluate the effectiveness of State and local programs under this chapter. Such evaluations shall be submitted for review and com-

ment by the State advisory committee and shall be made available to the public. The State educational agency shall submit to the Secretary a copy of such evaluations and a summary of the reports under subsection (a).

(c) REPORTS.—

(1) The Secretary, in consultation with State and local educational agency representatives, shall develop a model system which State educational agencies may use for data collection and reporting under this chapter.

(2) The Secretary shall submit not later than October 1990 and October 1992 a report to the appropriate committees of the Congress summarizing evaluations under subsection (b) in order to provide a national overview of the uses of funds and effectiveness of programs under this chapter.

SEC. 6206. NATIONAL STUDY OF EFFECTIVE SCHOOLS PROGRAMS.

20 USC 2951 note.
Contracts.

From funds available for the purposes of chapter 2 of title I of the Elementary and Secondary Education Act of 1965, the Secretary shall contract with a qualified organization or agency to conduct a national study of effective schools programs to determine the impact of effective schools programs under such chapter. The study shall consider relevant measures of the impact of the effective schools programs, including student achievement, attitudes, and graduation rates.

SEC. 6207. STUDY OF FUND DISTRIBUTION.

20 USC 2921 note.

The Secretary of Education shall conduct a study concerning the methods used for the allocation of funds among the States in the various programs of financial assistance to elementary and secondary education administered by the Department of Education. The study shall consider whether States and local school districts should be rewarded for making greater tax and fiscal efforts in support of general elementary and secondary education through adjustment of allocations under the various Federal financial assistance programs. The study shall investigate various methods of defining tax and fiscal efforts. Such study may consider other issues relating to the allocation of funds, such as the reliability and currency of poverty data used for purposes of program allocations under chapter 1 of title I of the Elementary and Secondary Education Act of 1965. The Secretary shall submit an interim report of such study on June 30, 1990, and shall submit a final report of such study not later than June 30, 1991.

Taxes.

102 STAT. 427

Reports.

SEC. 6208. STUDY RELATING TO WOMEN'S EDUCATIONAL EQUITY.

Reports.
20 USC 3046 note.

The Secretary is directed, not later than September 30 of each of the years 1988 through 1993, to submit to the President and the Congress a report setting forth the programs and activities assisted under part A of title IV of the Elementary and Secondary Education Act of 1965, and to provide for the distribution of this report to all interested groups and individuals, including the appropriate committees of the Congress, from funds authorized under such part.

SEC. 6209. IMMIGRANT EDUCATION REPORT AND ASSESSMENT.

20 USC 3130 note.

(a) ANNUAL REPORT.—Each State educational agency receiving funds under part D of title IV of the Elementary and Secondary Education Act of 1965 shall submit, annually, a report to the Secretary concerning the expenditure of funds by local educational agencies under such part. Each local educational agency receiving funds under such part shall submit to the State educational agency such information as may be necessary for such report.

(b) REPORT TO CONGRESS.—The Secretary shall submit biennially a report to the appropriate committees of the Congress concerning programs under such part.

(c) ASSESSMENT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall review and assess programs conducted under such part. The Comptroller shall submit the findings to the appropriate committees of the Congress by March 15, 1991.

25 USC 2016a.

SEC. 6210. ANNUAL REPORT ON EDUCATION OF INDIAN CHILDREN.

The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the appropriate committees of the Congress, the President, and the Secretary by September 30 of every other year a report which provides—

(1) an assessment of the needs of the Indian children with respect to the purposes of title IV of this Act in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act; and

(2) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

Contracts.
20 USC 3305 note.

SEC. 6211. RESEARCH RELATING TO BILINGUAL EDUCATION.

(a) RESEARCH AND DEVELOPMENT.—The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

102 STAT. 428

(b) AUTHORIZED ACTIVITIES.—Research activities authorized to be assisted under this section shall include—

(1) studies to determine and evaluate effective models for bilingual education programs;

(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

(3) longitudinal studies to measure the effect of title VII of the Elementary and Secondary Education Act of 1965 on students enrolled in programs under such title (including a longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under such title and which provides information including data on grade retention, academic performance, and dropout rates);

(4) studies to determine effective and reliable methods for identifying students who are entitled to services under such title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students;

(9) the effect of such title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title; and

(10) studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English.

(c) CONSULTATION AND DELEGATION OF AUTHORITY.—In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the

Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

(d) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under such title.

(e) LIMITATION OF AUTHORITY.—Nothing in this section shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.

SEC. 6212. BILINGUAL TRAINING FELLOWSHIP IMPACT STUDY.

20 USC 3323 note.
Contracts.

The Secretary shall by grant or contract undertake a study of the impact of recipients of fellowships under section 7043 of the Elementary and Secondary Education Act of 1965 on the field of bilingual education. The report shall be submitted no later than December 31, 1991. Copies of the report shall be sent to the appropriate committees of the Congress.

Reports.

SEC. 6213. REPORT ON BILINGUAL EDUCATION.

20 USC 3303 note.

The Secretary shall prepare and, not later than June 30, 1991, and June 30, 1992, shall submit to the appropriate committees of the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of title VII of the Elementary and Secondary Education Act of 1965 and of other programs for persons of limited English proficiency. Such report shall include—

(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

(2) a plan, including cost estimates, to be carried out during the 5-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary schoolchildren and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other education personnel necessary for such purpose;

(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities; and

(4)(A) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under such title and those carried out under other programs for persons of limited English proficiency;

(B) a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs; and

(C) the number of other educational personnel needed to carry out programs of bilingual education in the States.

SEC. 6214. JOINT STUDY OF SERVICES.

20 USC 1201 note.

The Secretary of Education, in conjunction with the Secretary of Labor and the Secretary of Health and Human Services, shall conduct a joint study of Federal funding sources for and services for adult education programs currently available, including literacy initiatives offered by public and private agencies, and shall jointly act to facilitate interagency coordination. The Secretary shall ensure the local and State officials involved in the delivery of adult education and literacy programs are involved in the study under this section. Not later than 24 months after the date of enactment of this Act, a joint report shall be submitted to the appropriate committees of the Congress describing the findings of the study.

Reports.

20 USC 4832 note.

102 STAT. 430

SEC. 6215. REPORT ON PROJECTS DEVELOPED WITH ASSISTANCE FROM THE FUND FOR IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING.

(a) EXEMPLARY PROJECTS.—The Secretary shall take appropriate steps to ensure that information regarding exemplary projects that are developed with assistance furnished under part B of title III of this Act are made available to institutions of higher education and State and local educational agencies.

(b) REPORT.—The Secretary shall submit a final report to the appropriate committees of the Congress not later than June 1, 1990. The report shall describe the programs assisted by part B of title III of this Act, document the success of such programs in improving education, and make such recommendations as the Secretary deems appropriate.

(c) REPORT FOR CONTINUED FUNDING RULE.—As a condition to continue to receive funding after the first year of a multi-year project, the project administrator shall submit an annual report to describe the activities conducted during the preceding year and the progress that has been made toward reaching the goals described in its application, if applicable.

20 USC 642 note.

SEC. 6216. STUDY OF EFFECTIVENESS OF PUBLIC LAW 815.

(a) GENERAL AUTHORITY.—The Comptroller General shall conduct a thorough study of the need for financial assistance for school construction as authorized by the Act of September 23, 1950 (Public Law 815, 81st Congress). The Comptroller General shall prepare and submit a report on the study required by this section not later than 1 year after the date of enactment of this Act together with such recommendations, including recommendations for such legislation, as the Comptroller deems necessary.

Reports.

(b) CONTENTS OF STUDY.—In carrying out the study required by subsection (a) of this section, the Comptroller General shall examine a representative sample of federally impacted school districts of local educational agencies. The Comptroller General shall—

(1) identify the number of children affected in each such school district;

(2) determine the type of school facility needed for such school district; and

(3) determine the estimated cost involved for building or repairing the school facility in each such district.

(c) SPECIAL CONSIDERATION REQUIRED.—In conducting the study required by this section, the Comptroller General shall give special consideration to—

(1) the eligibility criteria used for determining which federally impacted school districts are entitled to Federal funds for school construction,

(2) the criteria used for setting the priorities for the approval of such applications, and

(3) the process for reevaluating the needs of previously approved applicants which are on the waiting list for funds covered under Public Law 815, Eighty-first Congress.

102 STAT. 431

PART D—GENERAL PROVISIONS

20 USC 2701 note.

SEC. 6301. DEFINITIONS.

Except as otherwise provided, for the purpose of this Act the terms used in this Act have the meanings provided under section 1471 of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

20 USC 2701 note.

SEC. 6302. BUDGET ACT PROVISION.

Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this

Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

SEC. 6303. EFFECTIVE DATES.

20 USC 2701 note.

(a) GENERAL RULE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect July 1, 1988.

(b) SPECIAL RULES.—(1) Any provision of this Act or any amendment made by this Act which authorizes appropriations for fiscal year 1988 shall take effect on the date of the enactment of this Act.

(2) The provisions of section 2402, relating to the National Center for Vocational Research, shall take effect on April 10, 1988.

(3) The amendments made by section 3403 shall take effect for assessments made after September 30, 1989, with respect to State data.

Approved April 28, 1988.

LEGISLATIVE HISTORY—H.R. 5 (S. 373):

HOUSE REPORTS: No. 100-95 (Comm. on Education and Labor) and No. 100-567 (Comm. of Conference).
SENATE REPORTS: No. 100-222 accompanying S. 373 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): May 20, 21, considered and passed House.
Dec. 1, considered and passed Senate, amended, in lieu of S. 373.
Vol. 134 (1988): Apr. 19, House rejected conference report; receded and concurred in Senate amendment with an amendment.
Apr. 20, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Apr. 28, Presidential remarks.

Public Law 100-351
100th Congress

102 STAT. 661

An Act

To amend the effective date provision of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

June 27, 1988
[H.R. 4638]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, section 6303(b) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 is amended by adding at the end the following new paragraphs:

20 USC 2701 note.

"(4) Allotments to States made under chapters 1 and 2 of title I of the Elementary and Secondary Education Act of 1965 and under the Adult Education Act from amounts appropriated by the joint resolution entitled 'Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes', approved December 22, 1987 (Public Law 100-202), shall be computed in accordance with the provisions of law applicable to allotments to States under chapters 1 and 2 of the Education Consolidation and Improvement Act of 1981 and under the Adult Education Act, respectively, as such Acts were in effect on the day before the date of the enactment of this Act.

State and local governments.

"(5) Amounts appropriated by the joint resolution entitled 'Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes', approved December 22, 1987 (Public Law 100-202), for the following programs shall be awarded in accordance with the applicable provisions of law in effect on the day before the date of the enactment of this Act:

"(A) Programs under subchapter D of chapter 2 of the Education Consolidation and Improvement Act of 1981, except that

projects under section 583(c) may not be reviewed by a program significance panel.

"(B) National programs under the Adult Education Act.

"(C) Programs under the Indian Education Act.

"(D) Programs under title II of the Education for Economic Security Act.

"(E) The program under section 702 of the Stewart B. McKinney Homeless Assistance Act.

"(6) The provisions of part A of title II of this Act, excluding sections 2014(e) and 2018, shall apply only with respect to amounts appropriated for fiscal years beginning after September 30, 1988.

"(7) The amendments made by section 6001, relating to literacy training of homeless adults, shall take effect on October 1, 1988.

"(8) Any election under section 5209(b)(1) conveyed to the Secretary prior to August 1, 1988, shall take effect for the fiscal year beginning on October 1, 1988, and thereafter.".

Approved June 27, 1988.

LEGISLATIVE HISTORY—H.R. 4638:

HOUSE REPORTS: No. 100-668 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, considered and passed House.
June 14, considered and passed Senate.

102 STAT. 898 Public Law 100-382
100th Congress

Joint Resolution

Aug. 8, 1988
[H.J. Res. 90]

To authorize and request the President to call and conduct a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991, and for other purposes.

20 USC 1501 note.

Whereas access to information and ideas is indispensable to the development of human potential, the advancement of civilization, and the continuance of enlightened self-government;

Whereas the preservation and the dissemination of information and ideas are the primary purpose and function of the library and information services;

Whereas the economic vitality of the United States in a global economy and the productivity of the work force of the Nation rest on access to information in the postindustrial information age;

Whereas the White House Conference on Library and Information Services of 1979 began a process in which a broadly representative group of citizens made recommendations that have improved the library and information services of the Nation, and sparked the Nation's interest in the crucial role of library and information services at home and abroad;

Whereas library and information service is essential to a learning society;

Whereas social, demographic, and economic shifts of the past decade have intensified the rate of change and require that Americans of all age groups develop and sustain literacy and other lifelong learning habits;

Whereas expanding technological developments offer unprecedented opportunities for application to teaching and learning and to new means to provide access to library and information services;

Whereas the growth and augmentation of the Nation's library and information services are essential if all Americans, without regard to race, ethnic background, or geographic location are to have reasonable access to adequate information and lifelong learning;

Whereas the future of our society depends on developing the learning potential inherent in all children and youth, especially literary, reading, research, and retrieval skills;

Whereas rapidly developing technology offers a potential for enabling libraries and information services to serve the public more fully; and

Whereas emerging satellite communication networks and other technologies offer unparalleled opportunity for access to education opportunities to all parts of the world, and to individuals who are homebound, handicapped, or incarcerated: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRESIDENT TO CALL CONFERENCE IN 1989.

20 USC 1501 note.

The President is authorized to call and conduct a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991.

102 STAT. 899

SEC. 2. ESTABLISHMENT OF CONFERENCE.

20 USC 1501 note.

(a) PURPOSE.—The purpose of the White House Conference on Library and Information Services shall be to develop recommendations for the further improvement of the library and information services of the Nation and their use by the public, in accordance with the findings set forth in the preamble to this joint resolution.

(b) COMPOSITION.—The Conference shall be composed of—

(1) representatives of professional library and information personnel and individuals who support or furnish volunteer services to libraries and information services centers, from all age groups and walks of life, and members of the general public;

(2) representatives of local, statewide, regional, and national institutions, agencies, organizations, and associations which provide library and information services to the public;

(3) representatives of educational institutions, agencies, organizations, and associations (including professional and scholarly associations for the advancement of education and research);

(4) individuals with special knowledge of, and special competence in, technology as it may be used for the improvement of library and information services; and

(5) representatives of Federal, State, and local governments.

(c) DISTRIBUTION OF PARTICIPANTS.—In carrying out subsection (a)—

(1) one-fourth of the participants shall be selected from the library and information profession,

(2) one-fourth of the participants shall be selected from among individuals who are currently active library and information supporters, including trustees and friends groups,

(3) one-fourth shall be selected from among individuals who are Federal, State, or local government officials, and

(4) one-fourth shall be selected from the general public.

(d) STATE PARTICIPATION OPTIONAL.—(1) State and territorial delegates and alternates to the national conference may participate in a respective State or territorial conference.

(2) Nothing in this Act shall be construed to require any State to participate in a State or territorial conference.

SEC. 3. ADMINISTRATIVE PROVISIONS.

20 USC 1501 note.

(a) DIRECTION BY COMMISSION.—The Conference shall be planned and conducted under the direction of the National Commission on Libraries and Information Science.

(b) COMMISSION FUNCTIONS.—In carrying out this joint resolution, the Commission shall—

(1) when appropriate, request the cooperation and assistance of other Federal departments and agencies in order to carry out its responsibilities;

Grants.
Contracts.
State and local governments.

(2) make technical and financial assistance (by grant, contract, or otherwise) available to the States to enable them to organize and conduct conferences and other meetings in order to prepare for the Conference;

(3) prepare and make available background materials for the use of delegates to the Conference and associated State conferences, and prepare and distribute such reports of the Conference and associated State conferences as may be appropriate; and

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(4) conduct fiscal oversight activities with respect to the preparation for and the convening of the Conference including contracting for the services of an audit firm.

(c) FEDERAL AGENCY COOPERATION AND ASSISTANCE.—(1) Each Federal department and agency, including the national libraries, shall cooperate with, and provide assistance to the Commission upon its request under clause (1) of subsection (b). For that purpose, each Federal department and agency is authorized and encouraged to provide personnel to the Commission.

(2) The Librarian of Congress, the Director of the National Library of Medicine, and the Director of the National Agricultural Library are authorized to detail personnel to the Commission, upon request, to enable the Commission to carry out its functions under this joint resolution.

(d) PERSONNEL.—In carrying out the provisions of this joint resolution, the Commission is authorized to engage such personnel as may be necessary to assist the Commission and the Advisory Committee, without regard for the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(e) EXPENSES.—Members of the Conference may, while away from their homes or regular places of business and attending the Conference, be allowed travel expenses, including per diem in lieu of subsistence, as may be allowed under section 5703 of title 5, United States Code, for persons serving without pay. Such expenses may be paid by way of advances, reimbursement, or in installments as the Commission may determine.

20 USC 1501 note.

SEC. 4. REPORTS.

(a) SUBMISSION TO PRESIDENT; TRANSMITTAL TO CONGRESS.—A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than 120 days following the close of the Conference. The final report shall be made public and, within 90 days after its receipt by the President, transmitted to the Congress together with a statement of the President containing the recommendations of the President with respect to such report.

Public information.

(b) PUBLICATION AND DISTRIBUTION.—The Commission is authorized to publish and distribute for the Conference the reports authorized under this joint resolution. Copies of all such reports shall be provided to the depository libraries.

20 USC 1501 note.

SEC. 5. ADVISORY COMMITTEE.

(a) COMPOSITION.—There is established an advisory committee of the Conference composed of—

(1) eight individuals designated by the Chairman of the Commission;

(2) five individuals designated by the Speaker of the House of Representatives with not more than three being Members of the House of Representatives;

(3) five individuals designated by the President pro tempore of the Senate with not more than three being Members of the Senate;

(4) ten individuals appointed by the President;

(5) the Secretary of Education; and
(6) the Librarian of Congress.

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The President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chairman of the Commission shall, after consultation, assure that members of the Advisory Committee are broadly representative of all areas of the United States.

(b) FUNCTION.—The advisory committee shall assist and advise the Commission in planning and conducting the Conference.

(c) ADMINISTRATION.—(1) The Chairman of the Commission shall serve as Vice Chairman of the Advisory Committee. The Advisory Committee shall elect the Chair of the Advisory Committee from among its members, who are not full-time Federal employees. The Advisory Committee shall select the Chair of the Conference.

(2) The Chairman of the Advisory Committee is authorized to establish, prescribe functions for, and appoint members to, such advisory and technical committees and staff as may be necessary to assist and advise the Conference in carrying out its functions.

(d) COMPENSATION.—Members of any committee established under this section who are not regular full-time officers or employees of the United States shall, while attending to the business of the Conference, be entitled to receive compensation therefor at a rate fixed by the President but not exceeding the rate of pay specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime. Such members, may, while away from their homes or regular places of business, be allowed travel expenses, including per diem in lieu of subsistence, as may be authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

SEC. 6. GIFTS AND TITLE TO CERTAIN PROPERTY.

20 USC 1501 note.

Grants.

(a) GIFTS.—The Commission shall have authority to accept, on behalf of the Conference, in the name of the United States, grants, gifts, or bequests of money for immediate disbursement by the Commission in furtherance of the Conference. Such grants, gifts, or bequests offered the Commission, shall be paid by the donor or his representative into the Treasury of the United States, whose receipts shall enter such grants, gifts, and bequests in a special account to the credit of the Commission for the purposes of this joint resolution.

(b) REVERSION OF CERTAIN EQUIPMENT AND MATERIAL.—Materials and equipment acquired by the White House Conference shall revert to the National Commission on Libraries and Information Science after the close of the White House Conference.

SEC. 7. DEFINITIONS.

20 USC 1501 note.

For the purpose of this joint resolution—

(1) the term "Commission" means the National Commission on Libraries and Information Science;

(2) The term "Conference" means White House Conference on Library and Information Services; and

(3) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and American Indian Tribes.

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SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

20 USC 1501 note.

There are authorized to be appropriated without fiscal year

limitations $6,000,000 to carry out this joint resolution. Such sums shall remain available for obligation until expended.

Approved August 8, 1988.

LEGISLATIVE HISTORY—H.J. Res. 90 (S.J. Res. 26):

HOUSE REPORTS: No. 100-121 (Comm. on Education and Labor) and 100-765 (Comm. of Conference).
SENATE REPORTS: No. 100-156 accompanying S.J. Res. 26 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 8, considered and passed House.
Dec. 15, S.J. Res. 26 considered in Senate; H.J. Res. 90, amended, passed in lieu.
Vol. 134 (1988): July 13, Senate agreed to conference report.
July 26, House agreed to conference report.

102 STAT. 1044 Public Law 100-407 100th Congress

An Act

Aug. 19, 1988
[S. 2561]

To establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Technology-Related Assistance for Individuals With Disabilities Act of 1988.
29 USC 2201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology-Related Assistance for Individuals With Disabilities Act of 1988".

29 USC 2201.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) During the past decade, there have been major advances in modern technology. Technology is now a powerful force in the lives of most residents of the United States.

(2) For all individuals, technology can provide important tools for making the performance of tasks quicker and easier.

(3) For some individuals with disabilities, assistive technology is a necessity that enables them to engage in or perform many tasks. The provision of assistive technology devices and assistive technology services enables some individuals with disabilities to—

(A) have greater control over their own lives;

(B) participate in and contribute more fully to activities in their home, school, and work environments, and in their communities;

(C) interact to a greater extent with nondisabled individuals; and

(D) otherwise benefit from opportunities that are taken for granted by individuals who do not have disabilities.

(4) Although the development of assistive technology devices designed to assist individuals with disabilities is still in its early stages, there already exist a substantial number of assistive technology devices, including simple adaptations to existing equipment, that could significantly benefit, in all major life activities, individuals of all ages with disabilities. Such devices, including adaptations, could be used in programs and activities such as early intervention, education, rehabilitation and training, employment, residential living, independent living, recreation, and other aspects of daily living.

(5) The use of assistive technology devices and services by individuals with disabilities can reduce the costs of the disabil-

ities to society, individuals with disabilities, and families of individuals with disabilities by reducing expenditures associated with early intervention, education, rehabilitation, health care, transportation, telecommunication services, and other services required by individuals with disabilities.

(6) Many individuals with disabilities do not have access to the assistive technology devices and assistive technology services that such individuals need to allow such individuals to function in society commensurate with their abilities. States do not have comprehensive programs for making available technology-related assistance to individuals with disabilities. There is a lack of— 102 STAT. 1045

(A) resources to pay for such devices and services;

(B) trained personnel to provide such devices and services and to assist individuals with disabilities to use such devices and services;

(C) information about the potential of technology available to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals;

(D) coordination among existing State human services programs, and among such programs and private agencies, particularly with respect to transitions between such programs and agencies; and

(E) capacity of such programs to provide the necessary technology-related assistance.

(7) There are insufficient incentives for the commercial pursuit of the application of technology devices to meet the needs of individuals with disabilities, because of limited markets.

(8) At the Federal level, there is a lack of coordination among agencies that provide or pay for the provision of assistive technology devices and assistive technology services. Also, the Federal Government does not provide adequate assistance and information with respect to the use of assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide financial assistance to the States to help each State to develop and implement a consumer-responsive statewide program of technology-related assistance for individuals of all ages with disabilities that is designed to—

(A) increase awareness of the needs of individuals with disabilities for assistive technology devices and assistive technology services;

(B) increase awareness of policies, practices, and procedures that facilitate or impede the availability or provision of assistive technology devices and assistive technology services;

(C) increase the availability of and funding for the provision of assistive technology devices and assistive technology services for individuals with disabilities;

(D) increase awareness and knowledge of the efficacy of assistive technology devices and assistive technology services among individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals; 102 STAT. 1046

(E) increase the capacity of public and private entities to provide technology-related assistance, particularly assistive

technology devices and assistive technology services, and to pay for the provision of assistive technology devices and assistive technology services;

(F) increase coordination among State agencies and public and private entities that provide technology-related assistance, particularly assistive technology devices and assistive technology services; and

(G) increase the probability that individuals of all ages with disabilities will, to the extent appropriate, be able to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by human service agencies or between settings of daily living.

(2) To facilitate—

(A) the identification of Federal policies that facilitate payment for assistive technology devices and assistive technology services for individuals with disabilities;

(B) the identification of Federal policies that impede such payment; and

(C) the elimination of inappropriate barriers to such payment.

(3) To enhance the ability of the Federal Government to provide the States with—

(A) technical assistance, information, and training and public awareness programs relating to the provision of assistive technology devices and assistive technology services; and

(B) funding for model demonstration and innovation projects.

29 USC 2202.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) ASSISTIVE TECHNOLOGY DEVICE.—The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(2) ASSISTIVE TECHNOLOGY SERVICE.—The term "assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

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(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(3) INDIVIDUAL WITH DISABILITIES.—The term "individual with disabilities" means any individual—

(A) who is considered to have a disability or handicap for the purposes of any Federal law other than this Act or for

the purposes of the law of the State in which the individual resides; and

(B) who is or would be enabled by assistive technology devices or assistive technology services to maintain a level of functioning or to achieve a greater level of functioning in any major life activity.

(4) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 435(b) of the Higher Education Act of 1965, and includes community colleges receiving funding under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(5) SECRETARY.—The term "Secretary" means the Secretary of Education.

(6) STATE.—Except as otherwise provided, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(7) TECHNOLOGY-RELATED ASSISTANCE.—The term "technology-related assistance" means functions performed and activities carried out under section 101 that accomplish the purposes described in section 2(b)(1).

(8) UNDERSERVED GROUP.—The term "underserved group" means any group of individuals with disabilities who, because of disability, place of residence, geographic location, age, race, sex, or socioeconomic status, have not historically sought, been eligible for, or received technology-related assistance.

TITLE I—GRANTS TO STATES

SEC. 101. PROGRAM AUTHORIZED. 29 USC 2211.

(a) GRANTS TO STATES.—The Secretary of Education shall make grants to States in accordance with the provisions of this title to assist States to develop and implement consumer-responsive comprehensive statewide programs of technology-related assistance that accomplish the purposes described in section 2(b)(1).

(b) FUNCTIONS OF PROGRAMS.—Any State that receives a grant under this title may accomplish the purposes described in section 2(b)(1) by carrying out any of the following functions:

(1) IDENTIFICATION AND NEEDS ASSESSMENT.—Identification of individuals with disabilities (including individuals from underserved groups) who reside in the State and the conduct of an ongoing evaluation of the needs of such individuals for technology-related assistance, which may be based on existing data. 102 STAT. 1048

(2) IDENTIFICATION AND COORDINATION OF RESOURCES.—Identification and coordination of Federal and State policies, resources, and services relating to the provision of assistive technology devices and assistive technology services to individuals with disabilities, including entering into interagency agreements. Contracts.

(3) PROVISION OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES.—Provision of assistive technology devices and assistive technology services to individuals with disabilities and payment for the provision of assistive technology devices and assistive technology services.

(4) DISSEMINATION OF INFORMATION.—Dissemination of information relating to technology-related assistance and sources of funding for assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(5) TRAINING AND TECHNICAL ASSISTANCE.—Provision of training and technical assistance relating to assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(6) PUBLIC AWARENESS PROGRAM.—Conduct of a public awareness program focusing on the efficacy and availability of assistive technology devices and assistive technology services for individuals with disabilities.

(7) ASSISTANCE TO STATEWIDE AND COMMUNITY-BASED ORGANIZATIONS.—Provision of assistance to statewide and community-based organizations or systems that provide assistive technology services to individuals with disabilities.

(8) PARTNERSHIPS AND COOPERATIVE INITIATIVES.—Support of the establishment or continuation of partnerships and cooperative initiatives between the public sector and the private sector to facilitate the development and implementation of a statewide program of technology-related assistance for individuals with disabilities.

(9) QUALIFICATIONS OF STAFF.—Taking actions to develop standards, or where appropriate, apply existing standards to ensure the availability of qualified personnel.

(10) PROGRAM DATA.—Compilation and evaluation of appropriate data relating to the program.

(11) PROCEDURES FOR INVOLVEMENT OF CONCERNED INDIVIDUALS.—The establishment of procedures providing for the active involvement of individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals in the development and implementation of the program, and for the active involvement, to the maximum extent appropriate, of individuals with disabilities who use assistive technology devices and assistive technology services in decisions relating to such assistive technology devices and assistive technology services.

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(12) OTHER FUNCTIONS.—Any other functions the Secretary considers appropriate.

(c) AUTHORIZED ACTIVITIES.—In carrying out the functions described in subsection (b), any State may use amounts made available to the State under a grant under this title for activities including the following:

(1) MODEL DELIVERY SYSTEMS.—The State may support model systems for the delivery of assistive technology devices and assistive technology services to individuals with disabilities that if successful could be replicated or made generally applicable. Any such system may include—

(A) the purchase, lease, or other acquisition of assistive technology devices and assistive technology services or payment for the provision of assistive technology devices and assistive technology services;

(B) the use of counselors, including peer counselors, to assist individuals with disabilities and the families of individuals with disabilities to obtain assistive technology devices and assistive technology services;

(C) the involvement of individuals with disabilities or, if appropriate, families or representatives of individuals with disabilities in decisions related to the provision of assistive technology devices and assistive technology services to individuals with disabilities; and

(D) the evaluation of the efficacy of the particular model delivery system involved.

(2) STATEWIDE NEEDS ASSESSMENT.—The State may conduct a statewide needs assessment, which may be based on existing data and may include—

(A) estimates of the numbers of individuals with disabilities within the State, categorized by residence, type and extent of disabilities, age, race, gender, and ethnicity;

(B) a description of efforts during the fiscal year ending before the date of the enactment of this Act to provide assistive technology devices and assistive technology services to individuals with disabilities within the State, including—

(i) the number of individuals with disabilities who received appropriate assistive technology devices and assistive technology services; and

(ii) a description of the devices and services provided;

(C) the number of individuals with disabilities who are in need of assistive technology devices and assistive technology services, and a description of the devices and services needed;

(D) the cost of providing assistive technology devices and assistive technology services to all individuals with disabilities within the State who need such devices and services;

(E) a description of State and local public resources and private resources (including insurance) that are available to establish a statewide program of technology-related assistance for individuals with disabilities;

(F) the identification of State and Federal policies that facilitate or interfere with the operation of a statewide program of technology-related assistance;

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(G) a description of— Loans.

(i) alternative State-financed systems of subsidies for the provision of assistive technology devices and assistive technology services, including—

(I) a loan system for assistive technology devices;

(II) a low-interest loan fund;

(III) a revolving fund;

(IV) a loan insurance program; and

(V) a partnership with private entities for the purchase, lease, or other acquisition of assistive technology devices or the provision of assistive technology services; and

(ii) a description of the eligibility criteria for such a system;

(H) a description of the State's procurement policies and the extent to which such policies will ensure, to the extent practicable, that assistive technology devices purchased, leased, or otherwise acquired with assistance under a grant under this title are compatible with other technology devices, including technology devices designed primarily for use by individuals without disabilities, elderly individuals, or individuals with particular disabilities; and

(I) an inquiry into whether it is advantageous for either a State agency or a task force (composed of individuals representing the State and individuals representing the private sector) to study the practices of private insurance companies holding licenses within the State that offer health or disability insurance policies under which an individual may obtain reimbursement for— Insurance.

(i) the purchase, lease, or other acquisition of assistive technology devices; or

(ii) the use of assistive technology services.

(3) SUPPORT GROUPS.—The State may encourage the creation or maintenance of statewide or community-based organizations or systems that assist individuals with disabilities to use assistive technology devices or assistive technology services, or support any existing organization or system that provides such assistance.

(4) PUBLIC AWARENESS PROGRAM.—The State may support a public awareness program designed to provide information relating to the availability and efficacy of assistive technology devices and assistive technology services for individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals, or may establish and support such a program if no such program exists. Such a program may include—

(A) the development and dissemination of information relating to—

(i) the nature of assistive technology devices and assistive technology services;

(ii) the appropriateness, cost, and availability of, and access to assistive technology devices and assistive technology services; and

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(iii) the efficacy of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities;

(B) procedures for providing direct communication between public providers of assistive technology devices and assistive technology services and private providers of such devices and services (including employers); and

(C) the development and dissemination of information relating to—

(i) use of the program by individuals with disabilities, families or representatives of individuals with disabilities, and professionals who work in the field of technology-related assistance, and other appropriate individuals; and

(ii) the nature of the inquiries made by the individuals described in clause (i).

(5) TRAINING AND TECHNICAL ASSISTANCE.—The State may provide directly or support public or private training and technical assistance activities relating to the use of assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(6) ACCESS TO TECHNOLOGY-RELATED INFORMATION.—The State may develop, operate, or expand a system for public access to information concerning technology-related assistance, including information about assistive technology devices and assistive technology services, funding sources, costs, and individuals, organizations, and agencies capable of providing technology-related assistance to individuals with disabilities. In developing, operating, or expanding a system described in the preceding sentence, the State may—

(A) develop, compile, and categorize print, braille, audio, and video materials containing the information described in such sentence;

(B) identify and classify existing funding sources, conditions of and criteria for access to such sources, including any funding mechanisms or strategies developed by the State;

(C) identify existing support groups and systems designed to help individuals with disabilities make effective use of technology-related assistance; and

Records.

(D) maintain a record of the extent to which citizens of the State use or make inquiries of the system established under this paragraph, and of the nature of such inquiries.

(7) INTERSTATE AGREEMENTS.—The State may enter into cooperative agreements with other States to expand the capacity of the States involved to assist individuals of all ages with disabilities to learn about, acquire, use, maintain, adapt, and upgrade assistive technology devices and assistive technology services that such individuals need at home, school, work, or in other environments that are part of daily living.

(8) OTHER ACTIVITIES.—The State may utilize amounts made available under grants made under this title for any other activities necessary for developing, implementing, or evaluating the statewide program of technology-related assistance.

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SEC. 102. DEVELOPMENT GRANTS.

29 USC 2212.

(a) GENERAL AUTHORITY.—The Secretary shall award to States 3-year grants to assist States to develop and implement statewide programs of technology-related assistance for individuals with disabilities in accordance with the provisions of section 101.

(b) NUMBER OF GRANTS TO BE AWARDED.—From amounts appropriated under section 106, the Secretary shall award under this section, to the extent appropriate applications are submitted—

(1) in the first fiscal year for which amounts are appropriated, not more than 10 grants on a competitive basis;

(2) in the second fiscal year for which amounts are appropriated, not more than 20 grants on a competitive basis; and

(3) in the third fiscal year for which amounts are appropriated, any number of grants on a competitive basis.

(c) AMOUNTS OF GRANTS.—

(1) GRANTS TO STATES.—From amounts appropriated under section 106, the Secretary shall pay to each State that receives a grant under this section—

(A) for each of the first 2 years of the grant period, an amount that is not less than $500,000 and not more than $1,000,000; and

(B) for the third year of the grant period, an amount that is not less than $500,000 and not more than $1,500,000.

(2) GRANTS TO TERRITORIES.—From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each territory that receives a grant under this section not more than $150,000.

(3) CALCULATION OF AMOUNTS.—The Secretary shall calculate the amounts described in paragraphs (1) and (2) on the basis of—

(A) amounts available for making grants under this section;

(B) the population of the State or territory concerned; and

(C) the types of activities proposed by the State relating to the development of a statewide program of technology-related assistance.

(4) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated for purposes of carrying out the provisions of this section in each of the 2 fiscal years succeeding the fiscal year in which amounts are first appropriated for such purposes shall first be made available to States that received grants under this section during the fiscal year preceding the fiscal year concerned.

(5) DEFINITIONS.—For purposes of this subsection:

(A) The term "State" does not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(B) The term "territory" means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

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(d) PRIORITIES FOR DISTRIBUTION.—To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

(1) is geographically equitable; and

(2) distributes the grants among States that have differing levels of development of statewide programs of technology-related assistance.

(e) APPLICATIONS.—Any State that desires to receive a grant under this section shall submit an application that contains the following information and assurances:

(1) DESIGNATION OF RESPONSIBLE ENTITY.—The designation by the Governor of the office, agency, entity, or individual responsible for—

(A) preparing the application;

(B) administering and supervising the use of amounts made available under the grant;

(C) planning and developing the statewide program of technology-related assistance;

(D) coordination between public and private agencies, including the entering into of interagency agreements;

(E) ensuring active, timely, and meaningful participation by individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals with respect to performing functions and carrying out activities under the grant; and

(F) the delegation of any responsibilities described above, in whole or in part, to one or more appropriate offices, agencies, entities, or individuals.

(2) AGENCY INVOLVEMENT.—A description of the nature and extent of involvement of various State agencies in the preparation of the application and the continuing role of such agencies in the development of the statewide program of technology-related assistance.

(3) PUBLIC INVOLVEMENT.—A description of the nature and extent of involvement of individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals who are not employed by a State agency in the development of the application and the continuing role of such individuals in the development of the statewide program of technology-related assistance.

(4) PRELIMINARY NEEDS ASSESSMENT.—A tentative assessment of the extent of the need of individuals with disabilities in the State, including individuals from underserved groups, for a statewide program of technology-related assistance and a description of previous efforts and efforts continuing on the date of the application to develop a statewide program of technology-related assistance.

(5) STATE RESOURCES.—A description of State resources and other resources (to the extent such information is available) that are available to commit to the development of a statewide program of technology-related assistance.

(6) GOALS, OBJECTIVES, FUNCTIONS, ACTIVITIES, AND OUTCOMES.—The State's goals, objectives, functions, and activities planned under the grant, and the expected outcomes at the end of the grant period with respect to a consumer-responsive statewide program of technology-related assistance, consistent with the purposes described in section 2(b)(1).

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(7) INFORMATION AND EVALUATIONS.—A description of—

(A) procedures used for compiling information; and

(B) procedures that will be used to conduct evaluations.

(8) STATE POLICIES WITH RESPECT TO CONTRACTS AND AGREEMENTS.—A description of the policies governing contracts, grants, and other arrangements with public agencies, private nonprofit organizations, and other entities or individuals for the purpose of providing assistive technology devices and assistive technology services consistent with the provisions of this title.

(9) DISTRIBUTION PROCEDURE.—An assurance that, to the extent practicable, technology-related assistance made available with amounts received under the grant will be equitably distributed among all geographical areas of the State.

(10) COMPLIANCE WITH ACT.—An assurance that amounts received under the grant will be expended in accordance with the provisions of this title.

(11) SUPPLEMENT OTHER FUNDS.—An assurance that amounts received under the grant—

(A) will be used to supplement amounts available from other sources that are expended for technology-related assistance, including the provision of assistive technology devices and assistive technology services; and

(B) will not be used to pay a financial obligation for technology-related assistance (including the provision of assistive technology devices or assistive technology services) that would have been paid with amounts available from other sources if amounts under the grant had not been available, unless—

(i) such payment is made only to prevent a delay in the receipt of appropriate technology-related assistance (including the provision of assistive technology devices or assistive technology services) by an individual with disabilities; and

(ii) the entity or agency responsible subsequently reimburses the appropriate account with respect to programs and activities under the grant in an amount equal to the amount of the payment.

(12) CONTROL OF FUNDS AND PROPERTY.—An assurance that—

(A) a public agency shall control and administer amounts received under the grant; and

(B) a public agency or an individual with disabilities shall—

(i) hold title to property purchased with such amounts; and

(ii) administer such property.

(13) REPORTS.—An assurance that the State will—

(A) prepare reports to the Secretary in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this title; and

(B) keep such records and allow access to such records as the Secretary may require to ensure the correctness and verification of information provided to the Secretary under this paragraph. Records.

(14) COMMINGLING OF FUNDS.—An assurance that amounts received under the grant will not be commingled with State or other funds.

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(15) FISCAL CONTROL AND ACCOUNTING PROCEDURES.—An assurance that the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for amounts received under the grant.

(16) AVAILABILITY OF INFORMATION.—An assurance that the State will—

(A) make available to individuals with disabilities and the families or representatives of individuals with disabilities information concerning technology-related assistance in a form that will allow such individuals to effectively use such information; and

(B) in preparing such information for dissemination, consider the media-related needs of individuals with disabilities who have sensory and cognitive limitations and consider the use of auditory materials, including audio cassettes, visual materials, including video cassettes and video discs, and braille materials.

(17) OTHER INFORMATION.—Such other information and assurances as the Secretary may reasonably require.

29 USC 2213.

SEC. 103. EXTENSION GRANTS.

(a) GENERAL AUTHORITY.—The Secretary may award a 2-year extension grant to any State that demonstrates to the Secretary that the State made significant progress in developing and implementing a statewide program of technology-related assistance under a grant provided under section 102, consistent with the requirements of such section and the purposes described in section 2(b)(1).

(b) AMOUNTS OF GRANTS.—

(1) IN GENERAL.—(A) From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each State that receives a grant under this section an amount that is not less than $500,000 and not more than $1,500,000.

(B) From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each territory that receives a grant under this section not more than $150,000.

(C) For purposes of this paragraph:

(i) The term "State" does not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(ii) The term "territory" means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) CALCULATION OF AMOUNT.—The Secretary shall calculate the amount described in paragraph (1) on the basis of—

(A) amounts available for making grants pursuant to this section;

(B) the population of the State;

(C) the types of assistance to be provided; and

(D) the amount of resources committed and available from other sources.

(3) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated in any fiscal year for purposes of carrying out the provisions of this section shall first be made available to States that received grants under this section during the fiscal year preceding the fiscal year concerned.

102 STAT. 1056

(c) APPLICATION.—A State that desires to receive an extension grant under this section shall submit an application that contains the following:

(1) NEEDS.—A description of needs relating to technology-related assistance of individuals with disabilities, including individuals from underserved groups, families or representatives of individuals with disabilities, and other appropriate individuals within the State.

(2) ACTIVITIES UNDER DEVELOPMENT GRANT.—A description of the specific activities carried out under the development grant received under section 102 and the relationship of such activities to the development of a statewide program of technology-related assistance.

(3) PROGRESS.—Documentation of the progress made under the development grant toward development of a statewide program of technology-related assistance.

(4) PUBLIC INVOLVEMENT.—A description of State actions designed to determine the degree of satisfaction of individuals with disabilities, families or representatives of individuals with disabilities, public and private service providers, employers, and other appropriate individuals with—

(A) the degree of their ongoing involvement in the development and implementation of the statewide program of technology-related assistance;

(B) the specific activities carried out by the State under the development grant; and

(C) progress made toward development and implementation of a consumer-responsive statewide program of technology-related assistance under the development grant.

(5) COMMENTS.—A summary of any comments received concerning the issues described in paragraph (4) and the State's response to such comments, solicited from individuals affected by the statewide program of technology-related assistance, including individuals with disabilities, families or representatives of individuals with disabilities, public and private service providers, employers, and other appropriate individuals.

(6) OTHER INFORMATION AND ASSURANCES.—The information and assurances described in section 102(e), except the preliminary needs assessment described in section 102(e)(4).

(7) COMPATIBILITY AND ACCESSIBILITY OF ELECTRONIC EQUIPMENT.—An assurance that the State will comply with guidelines established under section 508 of the Rehabilitation Act of 1973.

SEC. 104. PROGRESS REPORTS. 29 USC 2214.

(a) IN GENERAL.—Each State that receives a grant under this title shall submit to the Secretary annually a report that describes—

(1) completed activities carried out under the grant, especially with regard to section 102(e)(6), including, to the extent appropriate, a description of the impact of such activities on individuals with disabilities, public agencies, financial resources committed to technology-related assistance for individuals with disabilities, community-based organizations, and employers;

(2) unanticipated problems encountered in carrying out such activities;

102 STAT. 1057

(3) activities planned to rectify such problems in the following year.

(b) SPECIFIC REQUIREMENTS FOR REPORTS WITH RESPECT TO EXTENSION GRANTS.—Each State that receives a development grant under section 102 may include, and each State that receives an extension grant under section 103 shall include in the report required by subsection (a) a description of—

(1) the types of assistance provided under the grant and the effects of such assistance, especially with respect to individuals with disabilities;

(2) the types of environments in which assistance was provided under the grant; and

(3) how the information required by this subsection was derived.

SEC. 105. ADMINISTRATIVE PROVISIONS. 29 USC 2215.

(a) REVIEW OF PARTICIPATING STATES.—

(1) IN GENERAL.—The Secretary shall establish a system to assess the extent to which States that receive grants pursuant to this title are making significant progress in achieving the purposes of this title.

(2) ONSITE VISITS.—(A) The Secretary shall conduct an onsite visit during the final year of each State's participation in the development grant program. Two-thirds of the onsite monitoring team in each case shall be qualified peer reviewers from other participating States.

(B)(i) Members of any onsite monitoring team who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States, but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5702 of title 5, United States Code, for individuals in the Government service traveling on official business. Wages.

(ii) Members of any onsite monitoring team who are not officers or full-time employees of the United States shall receive compensation at a rate not to exceed the daily equivalent of the

pay rate specified for GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of their duties as members of an onsite monitoring team. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

(3) MINIMUM REQUIREMENTS.—At a minimum the visits shall allow the Secretary to determine the extent to which the State is making significant progress in developing a statewide program of technology-related assistance consistent with the purposes described in section 2(b)(1).

(4) PROVISION OF INFORMATION.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information.

102 STAT. 1058

(b) CORRECTIVE ACTION PLAN.—

(1) IN GENERAL.—Any State that fails to comply with the requirements of this title shall be subject to a corrective action plan.

(2) PENALTIES.—A State that fails to comply with the requirements of this title may be subject to penalties such as—

(A) partial or complete fund termination;

(B) ineligibility to participate in the grant program in the following year; or

(C) reduction in funding for the following year.

(3) APPEALS PROCEDURES.—The Secretary shall establish appeals procedures for States that are found in noncompliance with the provisions of this title as the result of an onsite visit or failure to supply information required under subsection (a)(4).

(c) EFFECT ON OTHER ASSISTANCE.—Nothing in this title shall be construed to permit the State or any Federal agency to reduce medical or other assistance available or to alter eligibility under—

(1) title II, V, XVI, XVIII, XIX, or XX of the Social Security Act;

(2) the Education of the Handicapped Act;

(3) the Rehabilitation Act of 1973; or

(4) laws relating to veterans' benefits.

29 USC 2216.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $9,000,000 for the fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year ending before October 1, 1993.

(b) RESERVATION.—

(1) PROVISION OF INFORMATION.—The Secretary shall reserve 1 percent of funds appropriated in any fiscal year under subsection (a), or $500,000, whichever is greater, for the purpose of providing States with information and technical assistance with respect to the development and implementation of consumer-responsive statewide programs of technology-related assistance.

(2) ONSITE VISITS.—The Secretary may reserve from amounts appropriated in any fiscal year under subsection (a) such sums as the Secretary considers necessary for the purposes of conducting onsite visits as required by section 105(a)(2).

29 USC 2217.

SEC. 107. EVALUATION.

(a) EVALUATION.—

Contracts.

(1) IN GENERAL.—The Secretary, directly or by contract, shall conduct a national evaluation of the program of grants to States authorized by this title.

(2) REPORT TO CONGRESS.—The Secretary shall report to the Congress on the results of the evaluation conducted as required by paragraph (1) not later than October 1, 1992.

(b) PURPOSE.—The purpose of the evaluation required by subsection (a) shall be—

(1) to assess, through representative samples, the status and effects of State efforts to develop statewide programs of technology-related assistance for individuals with disabilities in a manner consistent with the provisions of this title, particularly in terms of the impact of such efforts on individuals with disabilities; and

(2) to recommend amendments to this title that the Secretary considers necessary to assist States to fully accomplish the purposes of this title.

(c) INFORMATION SYSTEM.—The Secretary shall work with the States to consider and develop an information system designed to report and compile, from information provided by the States, a qualitative and quantitative description of the impact of the program of grants to States authorized by this title on—

(1) the lives of individuals with disabilities, particularly with regard to the purposes described in section 2(a)(3);

(2) public agencies;

(3) fiscal resources committed to technology-related assistance for individuals with disabilities;

(4) community-based organizations; and

(5) employers.

TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

PART A—STUDY ON FINANCING OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES FOR INDIVIDUALS WITH DISABILITIES

SEC. 201. STUDY BY NATIONAL COUNCIL ON THE HANDICAPPED.

29 USC 2231.

(a) STUDY AND RECOMMENDATIONS.—The National Council on the Handicapped (hereafter in this part referred to as the "Council"), in addition to the duties of the Council described in section 401 of the Rehabilitation Act of 1973, shall conduct a study and make recommendations to the Congress and the President concerning—

(1) Federal laws, regulations, procedures, and practices that facilitate or impede the ability of the States to develop and implement consumer-responsive statewide programs of technology-related assistance for individuals with disabilities;

(2) Federal and State laws, regulations, procedures, and practices that facilitate or impede the acquisition of, financing of, or payment for assistive technology devices and assistive technology services for individuals with disabilities;

(3) policies, practices, and procedures of private entities (including insurers) that facilitate or impede the acquisition of, financing of, or payment for assistive technology devices and assistive technology services for individuals with disabilities; and

(4) alternative strategies for acquiring or paying for assistive technology devices and assistive technology services.

(b) ADVISORY COMMITTEE.—The Council shall appoint an advisory committee in accordance with section 404(c) of the Rehabilitation Act of 1973 to assist the Council in carrying out the duties of the Council under this part. Such advisory committee shall be appointed from individuals from both the public and private sectors who have broad experience and expertise directly relevant to the issues to be studied by the Council under this part, and shall also include individuals with disabilities, families of individuals with disabilities,

102 STAT. 1060 and representatives of organizations representing individuals with disabilities.

(c) COOPERATION OF OTHER AGENCIES.—

(1) FEDERAL AGENCIES.—The heads of all Federal agencies shall, to the extent not prohibited by law, cooperate with the Council in carrying out the duties of the Council under this part.

(2) USE OF RESOURCES OF FEDERAL, STATE, AND LOCAL AGENCIES.—The Council may use in carrying out its duties under this part, with the consent of the agency involved, services, personnel, information, and facilities of other Federal, State, local, and private agencies, with or without reimbursement.

(d) REPORTS.—The Council shall submit to the President and to the appropriate committees of the Congress—

(1) such interim reports as the Council considers advisable; and

(2) not later than 18 months after the date of the enactment of an Act providing appropriations to carry out this part, a final report of its study and investigation together with such recommendations, including specific proposals for legislation, as the Council considers advisable.

PART B—NATIONAL INFORMATION AND PROGRAM REFERRAL NETWORK

29 USC 2241.

SEC. 211. ESTABLISHMENT OF NATIONAL INFORMATION AND PROGRAM REFERRAL NETWORK.

Before the end of the 30-month period beginning on the date of the enactment of an Act providing appropriations to carry out this part, the Secretary shall—

(1) determine whether it is appropriate, based on the findings and recommendations of the study conducted under section 212, to establish and operate a national information and program referral network to assist States to develop and implement consumer-responsive statewide programs of technology-related assistance; and

Contracts.

(2) if the Secretary determines that establishment and operation of such a network is appropriate, enter into any contract or cooperative agreement necessary to establish and operate such a network, which may consist of information and program referral networks in existence or under development at the time of the study conducted under section 212.

29 USC 2242.

SEC. 212. FEASIBILITY STUDY REQUIRED.

(a) IN GENERAL.—The Secretary shall conduct a study—

(1) to determine the feasibility and desirability of creating the network described in section 211; and

(2) to determine the appropriate structure for the organization and operation of such a network, if it is determined to be feasible and desirable.

(b) CONTRACT AUTHORITY.—In carrying out the study required by subsection (a), the Secretary may enter into a contract or cooperative agreement necessary to conduct the study.

29 USC 2243.

SEC. 213. CONTENTS OF STUDY.

102 STAT. 1061 The study conducted under section 212 shall—

(1) analyze the needs of States that are interested in developing and implementing consumer-responsive statewide programs of technology-related assistance;

(2) describe the types of information and program referral networks (including electronic networks) in existence or under development at the time of the study, including—

(A) the types of information and program referral incorporated into or provided by such networks;

(B) the cost of maintaining such networks;

(C) the types of services provided by such networks;

(D) the types and numbers of individuals served by such networks;

(E) the location of such networks and accessibility to other networks; and

(F) the feasibility and desirability of linking such networks, including proposed plans and an estimate of the cost of such a linkage;

(3) analyze the impediments to the exchange of information and the development and operation of such networks;

(4) describe the information that should be incorporated into a national information and program referral network to ensure that the network serves the entire United States, in particular addressing the gaps in existing networks and methods of filling such gaps using networks in existence or under development at the time of the study;

(5) describe the information systems from other fields of technology development that may be incorporated into a national information and program referral network on technology-related assistance;

(6) analyze the issues involved in operating a national information and program referral network;

(7) analyze and describe management and cost projections for a national information and program referral network;

(8) evaluate operational alternatives including at least the advantages and disadvantages of—

(A) grant arrangements, contracting arrangements, or other funding mechanisms or arrangements, and the lengths of any such arrangements;

(B) various network configurations, including—

(i) regionally distributed;

(ii) focused on functional limitations;

(iii) age-focused;

(iv) expertise-centered; and

(v) other network configurations;

(C) costs associated with funding arrangements described in subparagraph (A) and network configurations described in subparagraph (B), and options for paying such costs, including the possible use of Federal funds, State funds, and other alternatives;

(D) mechanisms of payment for information and program referral services;

(E) mechanisms for ensuring that information systems remain current, have relevant and useful information, and provide information in a form that allows individuals with disabilities to make effective use of the information; 102 STAT. 1062

(F) forms of Federal oversight and independent evaluations that could be applied to a national information and program referral network;

(G) types of staffing expertise required for different options; and

(H) types of institutional oversight, such as governing boards and advisory panels; and

(9) a timetable for implementation of various network options.

SEC. 214. TIMETABLE FOR STUDY. 29 USC 2244.

(a) AWARD OF CONTRACT.—The Secretary shall, before the end of the six-month period beginning on the date of the enactment of an Act providing appropriations to carry out the study required by this part, enter into any contract or cooperative agreement necessary for conducting such study.

(b) COMPLETION OF STUDY.—Any contract or agreement entered into under subsection (a) shall require the study to be completed and a report concerning such study to be submitted to the Secretary and to the appropriate committees of the Congress before the end of the 18-month period beginning on the date of the contract or agreement. Contracts. Reports.

(c) IMPLEMENTATION OF RECOMMENDATIONS.—The Secretary, after allowing for public comment on the report submitted under subsection (b), shall take appropriate action based on the report before the end of the 6-month period following the date on which the Secretary receives the report.

PART C—TRAINING AND PUBLIC AWARENESS PROJECTS

29 USC 2251.

SEC. 221. TRAINING.

Contracts.

(a) TECHNOLOGY TRAINING.—

(1) GENERAL AUTHORITY.—The Secretary shall enter into contracts or cooperative agreements with appropriate nonprofit or for-profit entities for the purposes of—

(A) conducting training sessions; and

(B) developing, demonstrating, disseminating, and evaluating curricula, materials, and methods used to train individuals regarding the provision of technology-related assistance.

(2) ELIGIBLE ACTIVITIES.—Activities conducted under contracts or cooperative agreements entered into under paragraph (1) may address the training needs of individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(b) TECHNOLOGY CAREERS.—

(1) GENERAL AUTHORITY.—The Secretary shall make grants to assist institutions of higher education to prepare personnel for careers relating to the provision of technology-related assistance to individuals with disabilities.

(2) PRIORITY.—In awarding grants under paragraph (1), the Secretary shall give priority to the preparation of personnel who will provide technical assistance, administer programs, or prepare personnel necessary to support the development and implementation of consumer-responsive statewide programs of technology-related assistance to individuals with disabilities.

102 STAT. 1063

(3) USES OF FUNDS.—Amounts made available for grants under paragraph (1) may be used by institutions of higher education to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.

Contracts.
29 USC 2252.

SEC. 222. PUBLIC AWARENESS PROJECTS.

(a) PROGRAM AUTHORIZED.—The Secretary shall make grants to, or enter into contracts with, nonprofit and for-profit entities to carry out national projects that recognize and build awareness of the importance and efficacy of assistive technology devices and assistive technology services for individuals of all ages with disabilities functioning in various settings of daily life.

(b) USES OF FUNDS.—Amounts made available for grants and contracts under subsection (a) may be used to—

(1) develop a national media campaign (including public service time slots on radio and television);

(2) convene national or regional conferences;

(3) prepare and disseminate information (including summaries, comparisons, analyses, and cost-benefit projections) concerning the efficacy of technology-related assistance;

(4) encourage others to hold national or regional conferences;

(5) develop and maintain recognition programs that are designed to promote public credit to entities that demonstrate an aggressive effort for a sustained time to provide or promote the

use of technology-related assistance or the development of assistive technology devices; and

(6) other activities considered appropriate by the Secretary.

SEC. 223. PRIORITIES.

Federal Register, publication. 29 USC 2253. Effective date.

(a) IN GENERAL.—Beginning in fiscal year 1991, the Secretary shall—

(1) establish priorities for activities carried out with assistance under this part;

(2) publish such priorities in the Federal Register for the purpose of receiving public comment; and

(3) publish such priorities in the Federal Register in final form not later than the date on which the Secretary publishes grant announcements for grants made under this part.

(b) EXPLANATION OF DETERMINATION OF PRIORITIES.—Concurrent with the publication required by subsection (a), the Secretary shall publish in the Federal Register an explanation of how the priorities were determined.

PART D—DEMONSTRATION AND INNOVATION PROJECTS

SEC. 231. PROGRAM AUTHORIZED.

29 USC 2261.

Contracts.

(a) DEMONSTRATION AND INNOVATION PROJECTS.—The Secretary shall make grants to, or enter into contracts or cooperative agreements with, nonprofit and for-profit entities to pay all or part of the cost of establishing or operating demonstration and innovation projects relating to technology-related assistance for individuals with disabilities.

102 STAT. 1064

(b) ELIGIBLE ACTIVITIES.—Amounts made available for purposes of carrying out this part may be used for the following activities:

(1) MODEL PROJECTS FOR DELIVERING ASSISTIVE TECHNOLOGY DEVICES AND SERVICES.—The establishment or operation of model projects for delivering assistive technology devices and assistive technology services to individuals of all ages with disabilities functioning in various environments and carrying out various life activities (including model systems described in section 101(c)(1) of title I).

(2) MODEL RESEARCH AND DEVELOPMENT PROJECTS.—The conduct of applied research and development projects, including projects designed to—

(A) increase the availability of reliable and durable assistive technology devices that address unique, low-market demand, or complex technology-related needs for individuals with disabilities;

(B) develop strategies and techniques that involve individuals with disabilities in assessing the performance characteristics of technology that is not designed specifically for individuals with disabilities and developing adaptations of such technology for individuals with disabilities;

(C) assist in the transfer of technology that is not specifically designed for individuals with disabilities to uses appropriate for such individuals; and

(D) facilitate effective and efficient technology transfer.

(3) INCOME-CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT.—Demonstration projects in accordance with regulations issued by the Secretary (which may include a requirement that the Secretary shall provide an amount equal to not more than 90 percent of the amount required for any such project) to examine the feasibility of a direct loan program that would provide loans—

(A) to individuals with disabilities who require technology-related assistance in order to maintain a level of

functioning or to achieve a greater level of functioning in any major life activity; or

(B) to the families or employers of individuals with disabilities, on behalf of such individuals, for the purposes described in subparagraph (A).

(c) REPORT TO CONGRESS ON EXTENSION OF DIRECT LOAN PROGRAM.—The Secretary shall, based on the projects assisted under subsection (b)(3), report to Congress concerning the feasibility of operating a direct loan program of general applicability beginning after September 30, 1993.

PART E—AUTHORIZATION OF APPROPRIATIONS

29 USC 2271.

SEC. 241. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORITY.—There are authorized to be appropriated for purposes of carrying out this title (other than section 231(b)(1)) $5,000,000 for the fiscal year 1989 and such sums as may be
102 STAT. 1065 necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(b) MODEL DELIVERY PROJECTS.—There are authorized to be appropriated for purposes of carrying out section 231(b)(1) $1,500,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(c) PRIORITIES.—

(1) MODEL DELIVERY PROJECTS.—Notwithstanding any other provision of this Act, if amounts appropriated for purposes of carrying out this Act for the fiscal year 1989 equal or exceed $6,000,000, the Secretary shall first make available, from such amounts, not less than $500,000 for demonstration projects under section 231(b)(1).

(2) OTHER TITLE II ACTIVITIES.—(A) Of amounts appropriated under subsection (a) for the fiscal year 1989, the Secretary shall first make available not more than $250,000 for purposes of carrying out part A.

(B) Subject to subparagraph (A), of amounts appropriated under subsection (a) for any fiscal year, the Secretary shall first make available, in order of priority—

(i) not more than $750,000 for purposes of carrying out section 212; and

(ii) such sums as may be necessary for purposes of carrying out section 211.

Approved August 19, 1988.

LEGISLATIVE HISTORY—S. 2561 (H.R. 4904):

HOUSE REPORTS: No. 100-819 accompanying H.R. 4904 (Comm. on Education and Labor).
SENATE REPORTS: No. 100-438 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 2, considered and passed Senate.
Aug. 8, H.R. 4904 considered and passed House, proceedings vacated and S. 2561 passed in lieu.

102 STAT. 2862

Public Law 100-569
100th Congress

An Act

Oct. 31, 1988
[H.R. 4416]

To extend the authorization of appropriations for titles V and VI of the Library Services and Construction Act through fiscal year 1989.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—LIBRARY SERVICES AND CONSTRUCTION REAUTHORIZATION

SEC. 101. PROGRAM REAUTHORIZED.

Section 4(a) of the Library Services and Construction Act (20 U.S.C. 351b(a)) is amended by striking out "1988" each place it appears in paragraphs (4) and (5) and inserting "1989".

TITLE II—NATIONAL GEOGRAPHY STUDIES

National Geography Studies Centers Act. 20 USC 2701 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "National Geography Studies Centers Act".

SEC. 202. PROGRAM AUTHORIZED.

Part F of title IV of the Elementary and Secondary Education Act of 1965 is amended—

(1) by redesignating section 4607 as section 4608;

20 USC 3157.

(2) by striking out "section 4606" in section 4608(a) (as redesignated by paragraph (1)) and inserting in lieu thereof "sections 4606 and 4607"; and

(3) by adding after section 4606 the following new section:

"SEC. 4607. NATIONAL GEOGRAPHY STUDIES CENTERS.

20 USC 3156a. Contracts.

"(a) PROGRAM AUTHORIZED.—(1) The Secretary is authorized to enter into a contract with the Education Foundation of the National Geographic Society in order to pay the Federal share of the cost of the establishment and operation of National Geography Studies Centers. Each Center shall be for the study of geography in elementary and secondary schools.

"(2) For the purpose of this section—

"(A) the term 'contractor' means the Education Foundation of the National Geographic Society; and

"(B) the term 'Centers' mean the National Geography Studies Centers assisted under this section.

"(b) REQUIREMENTS OF CONTRACT.—The contract described in subsection (a)(1) shall provide that—

"(1) funds made available to the contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating the Centers in accordance with this section; and

102 STAT. 2863

"(2) the contractor will carry out the provisions of this section.

"(c) ESTABLISHMENT OF CENTERS.—In carrying out the provisions of this section, the contractor may enter into contracts with or make grants to local educational agencies, State educational agencies, State higher educational agencies, institutions of higher education, or consortia thereof, to establish and operate the Centers.

Contracts. State and local governments. Schools and colleges.

"(d) FUNCTIONS OF THE CENTERS.—(1) Each Center assisted under this section shall—

"(A) support programs for the study of geography for elementary and secondary school students, that may include laboratory schools and summer institutes;

"(B) support programs which provide elementary and secondary school teacher retraining and inservice training in geography and may make provision for teacher stipends for the period of participation in the program; and

"(C) establish procedures, through an advisory panel, for selecting elementary and secondary school students and teachers for the programs supported through the centers.

The selection procedures under subparagraph (C), to the extent practicable, shall take into account geographic distribution and the needs for greater access to, and participation in, geography studies

by students and teachers from historically underrepresented groups including females, minorities, and individuals with handicaps.

"(2) Each Center may—

"(A) support the development and dissemination of innovative curriculum in geography;

"(B) develop geography curriculum to be used in other subject areas such as environmental studies, science, international culture and politics, history, and foreign language studies; and

"(C) provide technical and resource assistance in geography to elementary and secondary schools in the region served by the Center.

"(e) FEDERAL SHARE.—The Federal share for each fiscal year shall be 75 percent.".

20 USC 3157.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 4608 of the Elementary and Secondary Education Act of 1965 (as redesignated by section 202) is amended by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated $5,000,000 for the fiscal year 1989, and each succeeding fiscal year ending prior to October 1, 1993, to carry out section 4607.".

TITLE III—UNITED STATES INSTITUTE OF PEACE

SEC. 301. REAUTHORIZATION.

Section 1710(a) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 4609(a)) is amended to read as follows:

Appropriation authorization.

"SEC. 1710. (a)(1) For the purpose of carrying out this title (except for paragraph (9) of section 1705(b)), there are authorized to be appropriated $10,000,000 for fiscal year 1989; $10,000,000 for fiscal year 1990; $10,000,000 for fiscal year 1991; $15,000,000 for fiscal year 1992; and $15,000,000 for fiscal year 1993.

102 STAT. 2864

"(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.".

(b) Section 1707(f)(2) of the United States Institute of Peace Act (22 U.S.C. 4606(f)(2)) is amended by striking out the first sentence thereof.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 4416:

HOUSE REPORTS: No. 100-666 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, considered and passed House.
Oct. 4, considered and passed Senate, amended.
Oct. 13, House concurred in Senate amendment.

102 STAT. 3207

Public Law 100-626
100th Congress

An Act

Nov. 7, 1988
[H.R. 4118]

To amend and extend the authorization of appropriations for public broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public Telecommunications Act of 1988.

SHORT TITLE

47 USC 609 note.

SECTION 1. This Act may be cited as the "Public Telecommunications Act of 1988".

PUBLIC TELECOMMUNICATIONS FACILITIES AUTHORIZATIONS

SEC. 2. Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended—

(1) by striking "and" after "1987,"; and

(2) by inserting "$36,000,000 for fiscal year 1989, $39,000,000 for fiscal year 1990, and $42,000,000 for fiscal year 1991," immediately after "1988,".

CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATIONS

SEC. 3. Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(1) by striking "and 1990" and inserting in lieu thereof "1990, 1991, 1992, and 1993";

(2) by striking "50 percent" and inserting in lieu thereof "40 percent";

(3) by striking "and" after "fiscal year 1989,"; and

(4) by inserting before the period at the end thereof the following: ", $245,000,000 for fiscal year 1991, $265,000,000 for fiscal year 1992, and $285,000,000 for fiscal year 1993".

PUBLIC BROADCASTING SATELLITE INTERCONNECTION FUND

SEC. 4. (a) Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended by adding at the end thereof the following new paragraph:

"(10)(A) There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Satellite Interconnection Fund (hereinafter in this subsection referred to as the 'Satellite Interconnection Fund'), to be administered by the Secretary of the Treasury.

"(B) There is authorized to be appropriated to the Satellite Interconnection Fund, for fiscal year 1991, the amount of $200,000,000. If such amount is not appropriated in full for fiscal year 1991, the portion of such amount not yet appropriated is authorized to be appropriated for fiscal years 1992 and 1993. Funds appropriated to the Satellite Interconnection Fund shall remain available until expended.

102 STAT. 3208

"(C) The Secretary of the Treasury shall make available and disburse to the Corporation, at the beginning of fiscal year 1991 and of each succeeding fiscal year thereafter, such funds as have been appropriated to the Satellite Interconnection Fund for the fiscal year in which such disbursement is to be made.

"(D) Notwithstanding any other provision of this subsection except paragraphs (4), (5), (8), and (9), all funds appropriated to the Satellite Interconnection Fund and interest thereon—

"(i) shall be distributed by the Corporation to the licensees and permittees of noncommercial educational television broadcast stations providing public telecommunications services or the national entity they designate for satellite interconnection purposes and to those public telecommunications entities participating in the public radio satellite interconnection system or the national entity they designate for satellite interconnection purposes, exclusively for the capital costs of the replacement, refurbishment, or upgrading of their national satellite interconnection systems and associated maintenance of such systems; and

"(ii) shall not be used for the administrative costs of the Corporation, the salaries or related expenses of Corporation personnel and members of the Board, or for expenses of consultants and advisers to the Corporation.".

Reports.
47 USC 396 note.

(b) On or before March 1, 1990, the Corporation for Public Broadcasting, on behalf of the public radio and public television licensees and permittees (or their designated representatives), shall submit to Congress a report by such licensees or permittees (or their representatives) detailing the satellite replacement needs of public

radio and public television, the difference in cost between leasing satellite transponder capacity and buying such capacity, and the availability of private sector rather than Federal financing.

FINDING WITH RESPECT TO CERTAIN PROGRAMMING

SEC. 5. Section 396(a) of the Communications Act of 1934 (47 U.S.C. 396(a)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting immediately after paragraph (5) the following new paragraph:

"(6) it is in the public interest to encourage the development of programming that involves creative risks and that addresses the needs of unserved and underserved audiences, particularly children and minorities;".

EXERCISE OF BUSINESS JUDGMENT BY CORPORATION

SEC. 6. Section 396(g)(2)(B)(ii) of the Communications Act of 1934 (47 U.S.C. 396(g)(2)(B)(ii)) is amended by striking "contract or".

ALLOCATION OF CORPORATION FUNDING

SEC. 7. (a) Section 396(k)(3)(A)(i) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(i)) is amended—

(1) by amending subclause (I) to read as follows:

"(I) $10,200,000 shall be available for the administrative expenses of the Corporation for fiscal year 1989, and for each succeeding fiscal year the amount which shall be available for such administrative expenses shall be the sum of the amount made available to the Corporation under this subclause for such expenses in the preceding fiscal year plus the greater of 4 percent of such amount or a percentage of such amount equal to the percentage change in the Consumer Price Index, except that none of the amounts allocated under subclauses (II), (III), and (IV) and clause (v) shall be used for any administrative expenses of the Corporation and not more than 5 percent of all the amounts appropriated into the Fund available for allocation for any fiscal year shall be available for such administrative expenses;";

102 STAT. 3209

(2) subclause (II) is amended to read as follows:

"(II) 6 percent of such amounts shall be available for expenses incurred by the Corporation for capital costs relating to telecommunications satellites, the payment of programming royalties and other fees, the costs of interconnection facilities and operations (as provided in clause (iv)(I)), and grants which the Corporation may make for assistance to stations that broadcast programs in languages other than English, and if the available funding level permits, for projects and activities that will enhance public broadcasting;"; and

(3) in subclause (III), by striking "clause (ii)(I)" and inserting in lieu thereof "clause (ii)".

(b) Section 396(k)(3)(A)(ii)(II) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(ii)(II)) is amended by striking "for public" and inserting in lieu thereof the following: ", and in accordance with any plan implemented under paragraph (6)(A), for national public".

(c) Clause (iii) of section 396(k)(3)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)) is amended to read as follows:

"(iii) Of the amounts allocated under clause (i)(IV) for any fiscal year—

"(I) 70 percent of such amounts shall be available for distribution among the licensees and permittees of public radio stations pursuant to paragraph (6)(B);

"(II) 7 percent of such amounts shall be available for distribution under subparagraph (B)(i) for public radio programming; and

"(III) 23 percent of such amounts shall be available for distribution among the licensees and permittees of public radio stations pursuant to paragraph (6)(B), solely to be used for acquiring or producing programming that is to be distributed nationally and is designed to serve the needs of a national audience.".

(d) Clause (v) of section 396(k)(3)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)) is amended to read as follows:

"(v) Of the interest on the amounts appropriated into the Fund which is available for allocation for any fiscal year—

"(I) 75 percent shall be available for distribution for the purposes referred to in clause (ii)(II); and

"(II) 25 percent shall be available for distribution for the purposes referred to in clause (iii) (II) and (III).".

(e) Section 396(k)(3)(A)(iv)(I) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(iv)(I)) is amended by striking "Subject to the provisions of clause (v)," and inserting in lieu thereof the following: "From the amount provided pursuant to clause (i)(II),".

(f) Subparagraph (B)(i) of section 396(k)(3) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)) is amended to read as follows: 102 STAT. 3210

Grants.

"(B)(i) The Corporation shall utilize the funds allocated pursuant to subparagraph (A)(ii)(III) and subparagraph (A)(iii)(II) to make grants for production of public television or radio programs by independent producers and production entities and public telecommunications entities, producers of national children's educational programming, and producers of programs addressing the needs and interests of minorities, and for acquisition of such programs by public telecommunications entities. The Corporation may make grants to public telecommunications entities and producers for the production of programs in languages other than English. Of the funds utilized pursuant to this clause, a substantial amount shall be distributed to independent producers and production entities, producers of national children's educational programming, and producers of programming addressing the needs and interests of minorities for the production of programs.".

(g) Section 396(k)(3) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)) is amended by striking subparagraphs (C) and (D).

(h) Paragraph (6)(A) of section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended to read as follows:

"(6)(A) The Corporation shall conduct a study and prepare a plan, in consultation with public television licensees (or designated representatives of those licensees) and the Public Broadcasting Service, on how funds available to the Corporation under paragraph (3)(A)(ii)(II) can be best allocated to meet the objectives of this Act with regard to national public television programming. The plan, which shall be based on the conclusions resulting from the study, shall be submitted by the Corporation to the Congress not later than January 31, 1990. Unless directed otherwise by an Act of Congress, the Corporation shall implement the plan during the first fiscal year beginning after the fiscal year in which the plan is submitted to Congress.".

(i) Section 396(k)(6)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(6)(B)) is amended by inserting immediately after the first sentence the following new sentence: "The Corporation shall assist radio stations to maintain and improve their service where public radio is the only broadcast service available.".

(j) Section 396(k)(7) of the Communications Act of 1934 (47 U.S.C. 396(k)(7)) is amended by inserting "(ii)(I) and (iii)(I)" immediately after "paragraph (3)(A)".

INDEPENDENT PRODUCTION

SEC. 8. Section 396(k)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)) is amended by adding at the end the following new clause:

"(iii)(I) For fiscal year 1990 and succeeding fiscal years, the Corporation shall, in carrying out its obligations under clause (i) with

respect to public television programming, provide adequate funds for an independent production service.

"(II) Such independent production service shall be separate from the Corporation and shall be incorporated under the laws of the District of Columbia for the purpose of contracting with the Corporation for the expenditure of funds for the production of public television programs by independent producers and independent production entities.

"(III) The Corporation shall work with organizations or associations of independent producers or independent production entities to develop a plan and budget for the operation of such service that is acceptable to the Corporation.

102 STAT. 3211

"(IV) The Corporation shall ensure that the funds provided to such independent production service shall be used exclusively in pursuit of the Corporation's obligation to expand the diversity and innovativeness of programming available to public broadcasting.

Reports.

"(V) The Corporation shall report annually to Congress regarding the activities and expenditures of the independent production service. At the end of fiscal year 1992, the Corporation shall submit a report to Congress evaluating the performance of the independent production service in light of its mission to expand the diversity and innovativeness of programming available to public broadcasting.".

NEEDS OF MINORITIES AND OTHER GROUPS

SEC. 9. (a) Section 396 of the Communications Act of 1934 (47 U.S.C. 396) is amended by adding at the end the following new subsection:

"(m)(1) Prior to July 1, 1989, and every three years thereafter, the Corporation shall compile an assessment of the needs of minority and diverse audiences, the plans of public broadcasting entities and public telecommunications entities to address such needs, the ways radio and television can be used to help these underrepresented groups, and projections concerning minority employment by public broadcasting entities and public telecommunications entities. Such assessment shall address the needs of racial and ethnic minorities, new immigrant populations, people for whom English is a second language, and adults who lack basic reading skills.

Reports.

"(2) Commencing July 1, 1989, the Corporation shall prepare an annual report on the provision by public broadcasting entities and public telecommunications entities of service to the audiences described in paragraph (1). Such report shall address programming (including that which is produced by minority producers), training, minority employment, and efforts by the Corporation to increase the number of minority public radio and television stations eligible for financial support from the Corporation.

"(3) As soon as they have been prepared, each assessment and annual report required under paragraphs (1) and (2) shall be submitted to Congress.".

(b) Section 398(b)(1) of the Communications Act of 1934 (47 U.S.C. 398(b)(1)) is amended by inserting, immediately after " 'recipients'),", the following: "in accordance with the equal employment opportunity regulations of the Commission,".

PROHIBITION AGAINST EDITORIALIZING

SEC. 10. (a) Section 399 of the Communications Act of 1934 (47 U.S.C. 399) is amended by striking the first sentence.

(b) The heading of such section is amended by striking "EDITORIALIZING AND".

SCRAMBLING OF PUBLIC BROADCASTING SERVICE PROGRAMMING

SEC. 11. Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection: 102 STAT. 3212

"(c) No person shall encrypt or continue to encrypt satellite delivered programs included in the National Program Service of the Public Broadcasting Service and intended for public viewing by retransmission by television broadcast stations; except that as long as at least one unencrypted satellite transmission of any program subject to this subsection is provided, this subsection shall not prohibit additional encrypted satellite transmissions of the same program.".

EFFECTIVE DATES

SEC. 12. This Act and the amendments made by this Act are effective on the date of enactment of this Act, except that the amendments made by sections 6 and 7(d) are effective on October 1, 1989. 47 USC 391 note.

Approved November 7, 1988.

LEGISLATIVE HISTORY—H.R. 4118 (S. 2114):

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